

# CUSTOMARY LAW ASCERTAINED

VOLUME 2

The Customary Law of the Bakgalagari, Batswana and  
Damara Communities of Namibia



Edited by Manfred O. Hinz  
Assisted by Alex Gairiseb

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Batswana and Damara Communities  
of Namibia





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## THE EDITORS

**Prof. Manfred O Hinz** studied law and philosophy at the University of Mainz, Germany, where he graduated in law. He took his legal practitioner examination in 1964, the year in which he also obtained his PhD from the University of Mainz. After studying anthropology, sociology and African and Oriental languages at the same University, he became assistant lecturer, teaching anthropology and public law. In 1971, he was appointed full professor at the University of Bremen.

In 1989, he went to Namibia where, after its independence, he assisted the Ministry of Justice in its projects to restructure the traditional administration of justice and to make an inventory of customary law. He was later seconded to the office of the first Vice-Chancellor of the University of Namibia (UNAM) to help build the first institution for legal education on Namibian soil: UNAM'S Faculty of Law. He joined the Faculty upon its inception. He has served as Deputy Dean and Dean of the Faculty.

Prof. Hinz held the United Nations Educational, Scientific and Cultural Organisation (UNESCO) Chair: Human Rights and Democracy in the Law Faculty's Human Rights and Documentation Centre from 2000 to 2009. In 2009, Prof. Hinz retired from his full-time position at the University of Namibia. In 2010 he returned to Germany, but remains related to UNAM as research professor.

Prof. Hinz has published widely in his areas of specialisation, particularly in the fields of legal and political anthropology and constitutional and international (economic) law.

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**Alexander Gairiseb** holds the degrees of BJuris and LLB from the University of Namibia. For the past two years he has worked as an assistant to the Ascertainment of Customary Law Project II, which falls under the auspices of the Human Rights and Documentation Centre of the Faculty of Law at the University of Namibia. Mr Gairiseb is a candidate legal practitioner at Fisher, Quarmby & Pfeifer Attorneys, Namibia.

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## PREFACE

The Namibian legal system is premised on the principle of legality. One of the essential elements of the principle of legality is that the law must be specific and clear. This presupposes that the law has to be drafted clearly and in such a way that a person may ascertain the legality of a particular course of conduct. Implicit therein is also the requirement that the law should be accessible and foreseeable. These requirements, needless to say, equally apply to customary law – given the pluralistic nature of our legal system.

The Customary Law Ascertainment Project, as mentioned elsewhere, is not aimed at codifying customary law in Namibia. That task is the preserve and prerogative of the Executive. The global objective of this Project seeks to assist in giving meaning and effect to the principle of specificity as it relates to the customary laws applicable in Namibia.

The principle of legality in all its facets is inextricably linked to human rights. The major international and regional human rights instruments all expressly and implicitly guarantee and protect this principle. For instance, the International Covenant on Civil and Political Rights, African Charter on Human and Peoples' Rights, and the European Convention for the Protection of Human Rights and Fundamental Freedoms all guarantee and protect this important legal principle.

It is against this backdrop that the Human Rights and Documentation Centre of the Law Faculty of the University of Namibia (UNAM) takes particular pride and joy in being associated with this epoch-making Project. With this work we are not only seeking to contribute towards ascertaining and making customary law accessible to its users, but also to ensure that traditional and informal justice systems in our country evolve towards serving justice in full respect of international human rights standards.

In celebrating this work, a few names deserve special mention. In this regard, Prof. Manfred Hinz, former Dean of the Faculty of Law (2000–2004) and a long-standing friend of the Faculty, the University itself and the Namibian nation, stands out. Prof. Hinz conceived the idea of ascertaining Namibian customary law. The love, passion and commitment for Namibian customary law as displayed by Prof. Hinz are beyond dispute. This Project serves as a prime example. We take this opportunity, therefore, to acknowledge and give credit to his active involvement and guidance for the successful completion of this Project.

The work and involvement of my immediate predecessors, Prof. Oliver Ruppel and Associate Prof. Nico Horn in bringing this Project into being are also acknowledged and credited.

Mr Alexander Gairiseb was a student assistant from the commencement of this Project and, for Volumes 2 and 3 of *Customary law ascertained*, took over the position of senior student assistant held for Volume 1 by Ms Ndateelela Emilia Namwoonde. Mr Gairiseb had the difficult task of coordinating the work of the other student assistants, liaising with Prof. Hinz, and meeting and negotiating with the relevant traditional authorities. The sterling work done by Mr Gairiseb in performing these tasks is hereby acknowledged and sincerely appreciated.

Ms Waboraro Kwati and all the student assistants, whose names can unfortunately not be expressly mentioned due to space limitations, are also gratefully acknowledged. They have been the proverbial foot soldiers for this Project and the successful completion thereof would not have been possible without their dedication and hard work.

A note of thanks is also due to the editor of the English texts and layout artist for all Volumes, Ms Sandie Fitchat, as well as to Ms Ivone Tjilale of the HRDC, and Ms Jane Katjavivi and Dr Napandulwe Shiweda of UNAM Press for the respective roles they played in ensuring the successful completion of this epoch-making enterprise.

Lastly, a note of thanks is due to the Finnish Embassy who generously funded this Project and graciously extended the time span for the usage of their funds to ensure the Project's finalisation. Our most sincere thanks also go to the Department of Development Cooperation of the Free Hanseatic City of Bremen, Germany, which generously supported our work on customary law for years. We are particularly grateful for the special financial contribution they made in 2012. This financial injection allowed us to cover the shortfall caused by the voluminous nature of this work.

**John Boniface Nakuta**

Director: Human Rights and Documentation Centre  
Faculty of Law  
University of Namibia

# FOREWORD

It is now almost 20 years ago that I said the following in my capacity as the then Chairperson of the Law Reform and Development Commission in an opening address of an LRDC workshop on the ascertainment of customary law:<sup>1</sup>

Unfortunately, as you will be aware, the customary law of Namibia has never been researched to the extent that it has been done elsewhere. In the absence of an own university with a faculty of law, as well as a Government which acknowledged the importance of such research prior to Independence, the lack of research should not come as a surprise. Suffice to say that it will not serve any purpose for us to spend time on the reasons – this can be left to historians. The fact is that we have now a University with a faculty of law, we have a Government committed, as I have stated, and, through the Law Reform and Development Commission, we have a statutory body in particular to do it.

Many things have happened since then in the field of research – both under the LRDC and more so by the various departments of the University of Namibia as well as by the Namibian legislator.

Section 6(c) of the Law Reform and Development Commission Act<sup>2</sup> stipulates as one of the Commission's tasks to make recommendations on the reform and development of the law of Namibia with regard to the integration or harmonisation of customary law with the common and statutory law. The Communal Land Reform Act<sup>3</sup> and the Community Courts Act<sup>4</sup> have since contributed to integration and harmonisation, albeit in limited areas. The reasons for this limited contribution are no different from those that also prevented other African states from achieving integration and harmonisation.

What we thought to promote in the early years of law reform in respect of customary law marriages has not happened, although a bill is currently being considered for the recognition of such marriages. In the enactment of the Married Persons Equality Act,<sup>5</sup> we were concerned about the status of women in customary law marriages, but could not make all parts of the Act applicable to such unions because little was known about them. The ascertainment of customary law of the various Namibian communities became an imperative in order to gain an understanding of what was happening in reality within the communities.

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1 Opening address, in Bennett, TW & M Rünger (Eds). 1996. *The ascertainment of customary law and the methodological aspects of research into customary law: Proceedings of workshop, February / March 1995*. Windhoek: Law Reform and Development Commission.

2 No. 29 of 1991, as amended.

3 No. 5 of 2002.

4 No. 10 of 2003.

5 No. 1 of 1996.

When we had the Namibian workshop on the ascertainment of customary law in Namibia, we discussed the pros and cons of codifying customary law. We also listened to the great scholar of African law, the late Antony Allott, who informed us about the project of restating customary law, for which he was responsible at the School of Oriental and African Studies at the University of London. We learned from discussions of this nature where the social and political difficulties were with respect to changing customary law, in particular to changing customary law from the top, and not by working with the people themselves who have lived with their laws for generations, who have changed them when the need arose, and who are still open to change in order to meet the demands of passing time.

It was in this context that the idea of ascertaining customary law was developed by encouraging the various communities to become engaged in the process of writing up at least certain elements of their customary law. Thus, in contrast to what was done in the *restatements* of customary law, the new approach was called the *self-stating* of customary law.

I had the pleasure of reading Volume 1 of *Customary law ascertained*, which contains the laws of the Owambo, Kavango and Caprivi communities. The present volume has the laws of the Damara as well as the Batswana and Bakgalagari communities. The picture expressed by the two volumes is very impressive. The various communities have obviously done a lot of research: they have collected the orally transmitted wisdom of their communities, and, indeed, they have contributed towards filling the gap in our knowledge with respect to customary law, to which I referred in 1995 in the quoted statement.

The ascertainment of customary law helps us to understand and appreciate our cultural diversity in the process of forging a common Namibian identity and heritage. It also helps us understand the rationale for the existence of the various customary laws, as well as how communities decide what laws they will keep and which to discard in view of the Namibian Constitution and other laws. Gender equality and respect for human rights are basic tenets of our Constitution and, in this context, we acknowledge the patriarchal nature of some of our customary laws. We know that marriage and family are the sites of women's legal, social and sexual subordination; moreover, their vulnerability to domestic violence and HIV and AIDS is increased. We cannot adopt an uncritical approach to customary laws, therefore; but we also need to start the process of engagement and dialogue – which these volumes will help us to achieve.

The Faculty of Law of the University of Namibia and its Human Rights and Documentation Centre should be congratulated for administering the Customary Law Ascertainment Project and supporting it over the years!

Taking what we now have in front of us, and what is to come in the third volume in this series containing the customary law of the Ovaherero and Ovambanderu, Nama and San communities, we will be able to look more closely at the laws applied by our

communities. We will be able to raise questions with community leaders; we will be able to have informed discussions with the members of these communities; and we will be able to suggest changes for the better – particularly as regards the lives of women and children – in terms of what we have in our Constitution and its fundamental rights and freedoms.

**Advocate Bience Gawanas**

Member of the Law Reform and Development Commission, 1991–2003

Chairperson of the Law Reform and Development Commission, 1995–1996

Namibian Ombudswoman, 1996–2003

African Union Commissioner for Social Affairs, 2003–2012

Special Advisor to the Minister of Health and Social Services, 2013–



# INTRODUCTION TO VOLUME 1<sup>1</sup>

## THE ASCERTAINMENT OF CUSTOMARY LAW: WHAT IS *ASCERTAINMENT OF CUSTOMARY LAW* AND WHAT IS IT FOR?

*Manfred O Hinz*<sup>2</sup>

### Background

Legal comparisons inform us that different legal orders have different ways of manifesting law. While some keep law orally, others opt for law in writing. While some limit the writing of law to writing law incidentally, i.e. in the application of cases, others choose

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1 This section is cited from *Customary law ascertained, Volume 1: The customary law of the Owambo, Kavango and Caprivi communities of Namibia*, published by Kuiseb Publishers/Namibia Scientific Society in 2010, and reproduced with their kind permission. It is equally relevant to Volume 2.

2 In my capacity as the coordinator responsible for the Ascertainment of Customary Law Project in Namibia under the University of Namibia Law Faculty's Human Rights and Documentation Centre, but also in my personal capacity, I wish to express my sincere gratitude to the Council of Traditional Leaders of Namibia and all the traditional leaders with whom I have worked since Namibia's independence, for the years of trustful and result-oriented cooperation. A word of special appreciation is due to *Elenga Enene* Ndilimani Herman Iipumbu, the supreme leader of the Uukwambi Traditional Authority, and *Elenga Enene* Peter Kauluma from the Ondonga Traditional Authority, with whom I was able to work on matters of customary law for almost 20 years. With Peter Kauluma I co-authored the introduction to the second edition of the *Ooveta dhOshilongo shOndonga – The laws of Ondonga* (Elelo lyOpashigwana lyOshilongo shOndonga – Ondonga Traditional Authority (Eds). 1994. Oniipa: Evangelical Lutheran Church in Namibia, pp 27–57). I have published several articles on the ascertainment of customary law; cf. e.g. Hinz, MO. 1997. "Law reform from within: Improving the legal status of women in northern Namibia". *Journal of Legal Pluralism and Unofficial Law*, 39:69–79; Hinz, MO. 2009. "Part 1 of the Namibian Ascertainment of Customary Law Project to be completed soon". *Namibia Law Journal*, 1(2):109–119; and Hinz, MO. 2009. "... to develop the customary law into the common law of the Sudan ...": *Customary law in Southern Sudan. A strategy to strengthen Southern Sudanese law as a source of law in an autonomous legal system*. Windhoek/Juba: United Nations Development Programme & Ministry of Legal Affairs and Constitutional Development. The following text uses parts of a paper contributed to the Conference on Customary Justice and Legal Pluralism in Post-conflict and Fragile Societies, organised by the United States Institute of Peace, the George Washington University, and the World Bank in Washington, and held from 17 to 18 November 2009. My publication entitled *Developing customary law: Self-stated laws of Namibian communities and customary law consultative meetings with traditional leaders* (Hinz, MO, assisted by S Joas. 1995. Windhoek: Centre for Applied Social Sciences) is a predecessor of this publication and the expected second volume with the laws of the central and southern traditional communities in Namibia.

to write law in an abstracted manner by way of selective statutory enactment or even comprehensive codification. Common law systems (English, American, Roman–Dutch) prefer the appearance of law through its application in cases. Civil law countries show a practice of codification, going back to the end of the 19th century.

It is important to recall these differences in order to underscore that it would not be appropriate to point at one way of manifesting legal rules as the only acceptable way of doing so. If one goes deeper into the history of given legal systems, one will detect that very concrete societal circumstances prompted the developments of the various legal systems. A very enlightening current debate is that between proponents of common law, on the one side, and proponents of civil law, on the other, who argue about the adequacy of both approaches to provide legal answers to societal challenges. Do we need more or fewer statutory interventions? Is common law able to provide the necessary certainty in a globalising world? Would statutory interventions not contribute better to legal proactivity, whereas common would only be reactive?

### **African customary law and the call for codification**

African customary law systems have, as African scholars hold, survived thousands of years as orally transmitted systems of law. They will not become ‘more’ law or law-like by being codified. Common law has survived history and remained a highly valued system of law without being codified. Why then argue, as lawyers do, that African customary law must be codified? This argument has accompanied the discourse in African jurisprudence since the days when many of the now independent African states achieved their independence!

Looking closer, it becomes obvious that many Western-educated lawyers from Europe and Africa never took it upon themselves to enquire about the nature of African law. For them, African customary law was very different from the law learned in school and, therefore, had to be changed to become similar to the mainstream of law taught at school.

Indeed, African customary laws show differences to Western law because both forms of law are based on different concepts of *justice*, and maintain procedural rules geared towards achieving those concepts of justice. In view of this, and since there was no administration of justice in Africa comparable to the administration of common law that would produce reliable precedents, the call for codification appeared to be the easiest way to ‘uplift’ African customary laws to the so-called standard of real law [sic!]. That African customary laws would lose their flexibility to be applied by the communities in the interest of restoring peace and harmony among themselves was of no concern to the proponents of codification!

Lawyers in francophone or lusophone countries could employ even more radical positions as the legal education obtained in these systems basically did not provide a place for customary law in their respective codified systems. The result we see right up to today in former French or Portuguese African countries is that African customary law lacks recognition and has remained second-class law, if law at all!



## What is the meaning of *ascertaining* customary law?

Having said this, one can now explore the meaning of the *ascertainment* of customary law and discuss the methodological aspects related to ascertainment. What do we refer to when we talk about the *ascertainment* of customary law? What do we expect when we *suggest customary law should be ascertained*?

The Community Courts Act<sup>3</sup> deals with the ascertainment of customary law in its section 13. This section prescribes the procedures to be applied by courts in case of doubt as to the existence or content of a rule of customary law. In such cases, courts have the power to ascertain customary law by consulting cases, textbooks and other sources or by calling for oral or written opinions. In other words, from a legal point of view, ascertainment of customary law means more than having customary law recorded in some way or another: the act of ascertainment also awards the ascertained version of customary law a legal qualification.

Mere academic records of customary law based on questionnaires, court observations, analyses of traditional courts' case books, collections of cases and case-complementary information from parties to cases cannot be considered as an ascertainment of customary law. As useful as records of this nature may be, and as much as they may potentially contribute to the ascertainment as evidence a court may or may not rely on, they remain mere aids to a possible subsequent ascertainment in the above-stated legal sense.

The Traditional Authorities Act<sup>4</sup> supports this view. According to the Act, *ascertainment* can be defined as any kind of authoritative transfer of orally transmitted customary law into a written form. According to section 3(1) of the Act, it is one of the tasks of Traditional Authorities –

... to ascertain the customary law applicable in that Traditional Authority after consultations with the members of that community, and assist in its codification; ...

From this language, it is clear that *ascertainment* is not synonymous with *codification*. *Codification* is just one form – and a very specific one at that – of consolidating customary law. Codification transforms customary law into an Act of Parliament. With this, customary law ceases to be owned by the communities in which it developed and can only be changed by an amending Act of Parliament. Although the call for codification is still being heard up to today, there was not much by way of codified customary law that we could refer to in our Project research. To this author's knowledge, and despite the calls for codification of customary law, as far as Africa goes, only the law of the Zulu in South Africa and the law of some groups in Southern Sudan have been codified to date.<sup>5</sup>

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3 No. 10 of 2003.

4 No. 25 of 2000.

5 Cf. to the Zulu code, Bennett, TW. 2004. *Customary law in South Africa*. Cape Town: Juta: 46f; for the codification of customary law in Southern Sudan, see my report quoted above on

Apart from codification, we can also speak of the *ascertainment* of customary law when customary law is transferred into what has become known as the *restatement* of customary law. I refer here to the Restatement Project conducted by the School of Oriental and African Studies (SOAS) of the University of London under Antony Allott. Allott defines the restatement approach, borrowed, as he says, from the American Restatements, as follows:<sup>6</sup>

[Restatements] were authoritative, comprehensive, careful and systematic statements of common-law rules in such fields as torts, contracts and property. Necessarily cast in semi-codified form, they were still not codes, as they lacked the force of legislated law. Instead they were the most accurate and precise statements of what those producing them had concluded were the main principles and rules as evolved by the courts, and, as such, courts and practitioners alike could turn to them as guides.

Customary law restatements were achieved in several African countries in the 1970s. However, the restatement approach fell into disuse for various reasons, one being that the restatement of customary law made today will not necessarily reflect the customary law of tomorrow.<sup>7</sup>

Finally, we can also speak of *ascertainment* of customary law when traditional communities produce their own versions of their customary law in writing – versions of customary law for which, in the Namibian context, the term *self-statement* of customary law has been accepted.

*Self-stating* customary law refers to a process of ascertaining customary law by the owners of the law to be ascertained: the people, the community, the traditional leaders as the custodians of customary law. *Self-stating* also refers to what the Traditional Authorities Act stipulates in its section 3(3)(c), where part of the duties and functions to be performed by Traditional Authorities under the Act includes that they may “make customary law”.

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customary law in Southern Sudan. A special case are the Laws of Lerotholi (the customary law of the Basotho in Lesotho), the first part of which was put into writing by the Basutoland Council in 1903. The legal status of the Laws of Lerotholi is still a matter of debate. Cf. Duncan, P. 2006. *Sotho laws and customs*. Morija: Morija Museum and Archives (reprint of the 1960 edition).

6 “International development in customary law: The restatement of African law project and thereafter”. In Bennett, TW & M Rünger (Eds). 1996. *The ascertainment of customary law and the methodological aspects of research into customary law: Proceedings of workshop, February/March 1995*. Windhoek: Law Reform and Development Commission, p 33.

7 Bennett (ibid: 48) notes what the Law Commission of South Africa said on the possible restatement of customary law in South Africa. According to him, the Commission held that “the facilities for such a project were not available in South Africa, and that, unless regularly updated, the restatement would fall behind social practice to become yet another ‘official’ version of customary law, i.e. a version that would not be in line with the law lived by the communities.

The procedures of self-stating may differ from community to community. Nonetheless, the most important element in self-stating is that the end result will be a product created in the community which is to follow and apply the law. Instead of injecting into the communities what the law ought to be, it is left to the community to decide what part of their law is to be consolidated in writing, since the community and community stakeholders will know best what their law is, and where certainty through writing is needed.

The result of self-stating is binding to the community as part of their customary law. It is, however, important to note that the binding quality of the self-stated laws is neither an implicit repeal of the orally transmitted customary law or even only parts of it, nor does it imply a change in the nature of customary law as a set of rather flexible principles and rules, nor will it prevent the community to amend their law as the need arises.<sup>8</sup> It is part of the philosophy behind the approach to leave the ascertainment of customary law to the communities so that the communities decide what part of customary law they want to have in writing, and how they want the content of the self-statement to be worded. Therefore, what we find in the self-statements are only aspects of the respective customary law. The fact that certain rules of customary law have been ascertained in writing will keep the heretofore practised application of the now ascertained rules untouched. That is, the applying authorities will still handle the ascertained rules – or rather, the ascertained principles – in the manner that appears appropriate to them in view of the interest to achieve the restoration of societal peace.<sup>9</sup> Legislative drafting has developed into a very specialised art in many modern jurisdictions. However, the reader of the self-stated laws should not expect that these laws follow the sophisticated techniques of modern legislative drafting. In many instances, the self-stated customary laws give educative explanations or even state rather general societal aspirations – a fact which will be a challenge to interpretation! As the self-stated law is owned by the community, the community has the authority to amend it. Self-statement may be seen as approximating codification, but self-statement is certainly not codification by organs of the state. Such community-effected codification – if one wants to call it codification – is subject to amendments by the community and does not replace unwritten living law.

### **Who needs ascertained customary law, and how should ascertainment be done?**

Who needs ascertained customary law? Do traditional leaders who apply customary law need it to be ascertained? Before the many interventions by statutory law, and, more

8 D’Engelbronner-Kolff, FM 1997. *Dispute resolution processes amongst the Sambyu of Northern Namibia*. Maastricht: Shaker Publications, pp 149ff. D’Engelbronner-Kolff shows how Shambyu traditional courts navigate between the self-stated version of their law and the legal principles behind the statement – thus allowing for decisions appropriate to the cases to be decided.

9 Which is the main objective in adjudicating cases under customary law! Cf. Hinz, MO. 2010. “Justice for justice and justice for peace”. In Hinz, MO & C Mapaire (Eds). *In search of justice and peace. Traditional and informal justice systems in Africa*. Windhoek: Namibia Scientific Society, pp 11ff.

so, before the development of independent nation states, traditional leaders could, with good reason, declare: “Why ascertain customary law? We know our law. It is only you, the outsiders, who want to impose on us some kind of written versions of the law, which will not be our law anyway!” This attitude to the ascertainment of customary law has changed. More and more traditional leaders understand the reasons for ascertaining customary law, accept ascertainment undertakings, even request to have the laws of their communities ascertained, and take the lead in ascertainment projects.

Traditional communities are not as homogeneous as they used to be, when basically everybody knew what the law of the community was, and where traditional ways of communicating knowledge provided young people with the necessary education to grow up with the community’s value framework.

There is also a growing understanding that the legal complexity experienced in urban settlements where various customary laws apply forces communities to attend to ascertaining and even standardising customary law. There is a growing acceptance that a Chief’s verdict is not necessarily the last word anymore; dissatisfied parties may take the Chief’s verdict to appeal. The judges sitting on appeals will not necessarily know what the customary law applied by the court *a quo* is, and may fail to obtain the required knowledge unless there is something in writing to inform them.

### **Customary law – *living law*!**

There are important lessons which legal anthropological research has developed over the years, and which have also been acknowledged by courts of law. These lessons support the voices today who speak against the codification of customary law, because codification will, as indicated above, destroy one of the most important qualities of customary law, namely its openness to accommodate reconciliatory solutions to problems instead of allowing the law to win the parties over. In addition to what has been said above for Africa in general terms, it may be noted that the plea for the codification of Namibian customary law<sup>10</sup> has not produced one piece of codification since Independence in 1990.

South African courts support the vote against codification.<sup>11</sup> South African courts were faced with the situation where the law, as lived in communities, had developed away from the law as presented in old records of customary law. It was found that the living

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10 UNIN/United Nations Institute for Namibia. 1986. *Perspectives for national reconstruction and development*. Lusaka: UNIN, p 963. The Law Reform and Development Commission Act, 1991 (No. 29 of 1991) does not specifically call for the codification of customary law. The Act refers to codification in general terms as a possible for any branch of the law to be more readily accessible. As to customary law, section 6 of the Act emphasises one of the objectives of the Commission as being to integrate and harmonise customary law with common and statutory law.

11 Cf. *Mthembu v Letsela* 1997 (2) SA 936 (T); *Hlohe v Mahlalela* 1998 (1) SA 449 (T); *Mabena v Letsoalo* 1998 (2) SA 1068 (T).

law was the customary law to be accepted by courts and not the so-called official laws ‘of the books’. This really challenging jurisprudential development accepts – as promoted by legal pluralism – that customary law, as the local law of the people, would lose its quality of being the people’s law if it were codified into a statutory type of document.

## **The Namibian Ascertainment of Customary Law Project: A work in progress**

Self-stating customary law has a long history in Namibia, going back to pre-Independence developments in some of the traditional communities. The more or less independently undertaken efforts by some traditional communities eventually resulted in a nationwide Ascertainment Project when, some three years ago, the Council of Traditional Leaders took the Project on and appealed to all Traditional Authorities to start their own projects to ascertain their customary law. The very demanding challenge to coordinate the nationwide ascertainment of customary law led to the decision to divide it into two parts: Phase 1 encompasses the 17 communities of the north-central and north-eastern parts of the country, i.e. the Owambo, Kavango and Caprivi communities, while Phase 2 will cover the communities in north-western, central and southern Namibia.

Phase 1 has now been completed, but in what sense, and to what extent? Well, it has been completed in the sense that Volume 1 contains what was received by the various communities in accordance with agreements decided upon in the various meetings that the HRDC organised over the past two years. Most of the communities honoured the agreements and delivered what was expected from them. Some, for various reasons, did not.<sup>12</sup> Nevertheless, and despite the gaps, what has been assembled in this volume is extraordinary: this Volume assembles a portfolio of customary law that Namibia has never seen before, and which has no match yet in any other African country.

However, what is being presented to the public in this Volume is certainly not the final word on the customary law of the 17 communities covered here. The communities will, of course, continue to develop their laws. The Owambo and Kavango communities meet regularly to decide on amendments to their laws. In particular, they meet to consult one another on changes to the value of the fines to be levied by the courts to remedy wrongs committed, or the so-called official price for one head of cattle, which is, to some extent, subject to changes in the market value of cattle.

The unification of customary law by the Kavango communities may influence other clusters of communities to embark upon a similar process. Statutory changes by the Namibian Parliament may provoke changes in customary law. Court decisions may also have consequences for certain parts of customary law, as it was not the HRDC’s task to scrutinise the various pieces of customary law against existing statutes – including the

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12 This applies in particular to the community profiles, but also to the certificates of consent to publish the submissions sent to the editors by the Traditional Authority offices.

Namibian Constitution. Testing customary law against the Constitution and, in particular, the human rights provisions (see Article 66) in it to which customary law is subject is a very demanding undertaking which is left to the public discourse and, ultimately, to Namibia's competent courts.

The publication of the laws as they were submitted to the HRDC will also generate revision processes by the communities themselves. The drafters and experts of customary law in the various communities will take note of the laws of other communities, compare them with their own laws, and most probably suggest improvements. They will also pay attention to the wording of their laws, the texts in their indigenous languages, and the translations – of which quite a number were done by the HRDC. We realised that there were some almost unsolvable language problems in certain instances, but we accepted the documents submitted to us in the various indigenous languages. For us, it was more important to leave, say, a term in Oshimbadja as originally drafted, than to follow the existing language policy which focuses on using only Oshindonga and Oshikwanyama. As regards the north-eastern communities, Rukwangali is widely spoken and understood in the Kavango Region. Similarly, people of the Shambyu, Gciriku and Hambukushu communities prefer the use of their languages,<sup>13</sup> and sometimes use terms that would have required language experts to translate – and they are not easy to find. The same applies to Caprivi, where Silozi has been accepted to be the *lingua franca*, but the often preferred languages are Sisubia, Siyeyi, and Sifwe, among others. We hope that the English translations are as true as possible to the original texts, although it has to be noted that the indigenous language terms for certain legal concepts do not always express the same as the English concepts.<sup>14</sup> Only further discussions, interpretations, applications and cases brought to the state courts will help to clarify any complexities. The editors were also very reluctant to make any changes to the texts. One that was implemented, however, was to replace *tribal* with *traditional* and *tribe* with *traditional community* or simply *community*. We did not alter references to *headman* or *senior headmen* although these terms have not been kept in the language of the lawmaker, e.g. in the Traditional Authorities Act. Our reason for doing so was that both terms are very much still in use and reflect social reality, which is not necessarily reflected identically in the language of the Act, which talks of *traditional* and *senior traditional councillors*. We also did not intervene when self-stated customary laws dealt with the question of ownership of communal land, and this not always in line with sections 17, 21 and 24 of the Communal Land Reform Act.<sup>15</sup>

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13 The spelling of *Shambyu* is just one example to show the difficulties mentioned. The Rukwangali spelling (also used in the *Government Gazette*) is *Sambyu*; members of the Shambyu community, however, prefer *Shambyu*.

14 *Ownership* is an example to illustrate this. Under common law, ownership of land means having all rights over the land, including the right to sell. Under customary law, there is no ownership of land in this sense; if the concept of *ownership* is referred to, it expresses the existence of a certain authority over the land, but bound to obligations towards the community.

15 No. 5 of 2003.

Summary references to customary law are found in statutes such as the Traditional Authorities Act,<sup>16</sup> the Community Courts Act,<sup>17</sup> and the Communal Land Reform Act,<sup>18</sup> and are sure to be repeated in the two main statutes due for parliamentary consideration, namely the proposed Customary Marriage Act<sup>19</sup> and the Act on customary inheritance law.<sup>20</sup> These statutes may prompt communities to amend their laws so that the appliers of the statutes will be able to learn what it means when the Acts refer to the applicable customary law.

It is, therefore, important that all who will make use of this publication understand it as a work in progress: progress in the service to further improve and develop the customary law in the various Namibian communities. Looking back to developments in self-stating customary laws in Namibia, one sees very specific features; these can be expected to influence further steps in this work in progress. For example, the very early versions of self-sated laws concentrated on fines for the usual catalogue of wrongs, which we find in any textbook on criminal law or the law of delict. Later versions have added wrongs from environmental law in particular. Later versions have also paid attention to constitutional matters relevant to traditional governance, meaning that there is a growing awareness to consider rule-of-law principles in the application of customary law and the administration of this law. Community participation has also been noted in many of the more recently drafted self-statements. The community profiles, which introduce the laws of the various communities and which were compiled by the communities themselves, illustrate a growing awareness of the foundation of the community, including the philosophical foundations on which their laws are built.

Some years ago, some of us working with traditional communities on their customary laws were criticised when we communicated their self-stated laws, which we had collected at the time, in meetings with other communities. We were said to have violated customary law by circulating documents which were seen to be secrets of some kind. We objected to this and see now that many communities have obviously taken note of what others were doing and even integrated rules developed by other communities into their own laws. Today, in some drafts of self-stated documents, we even see references to scholarly work (such as work done by me or the Legal Assistance Centre). This is very encouraging although we also note that some of the drafts show the handwriting of knowledgeable local personalities: handwriting which might not always be in agreement with the aspirations of the members of the community.

As time goes by, we will certainly observe what happens to the self-stated laws when more and more references to them are made within the communities and from outside. These

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16 As referred to above.

17 As referred to above.

18 As referred to above.

19 Cf. the Customary Law Marriages Bill in Law Reform and Development Commission. 2004. *Report on Customary Law Marriages*. Windhoek: Republic of Namibia, Annexure B.

20 A Bill is being worked on by the Law Reform and Development Commission.



references may challenge communities to reconsider not only their approaches to their laws, but also to their profiles. Phase 2 of the Namibian Customary Law Ascertainment Project will add to these challenges, as many communities will use this first volume as a basis for their own work on their customary law.



# INTRODUCTION TO VOLUME 2

## THE LAWS OF THE BAKGALAGARI, BATSWANA BA NAMIBIA AND DAMARA COMMUNITIES

*Manfred O Hinz*<sup>1</sup>

The introductory remarks to the first volume of *Customary law ascertained* explained what it meant to *ascertain* customary law, and why such ascertainment was necessary. The introductory remarks also described the approach followed in the Namibian way of ascertaining customary law. The introductory remarks to this second volume of *Customary law ascertained* start with comments on the laws contained in this volume; some jurisprudential comments on the Namibian approach to the ascertainment of customary law are added; and they conclude with comments on legal pluralism.<sup>2</sup>

### **The laws of the Bakgalagari, Batswana ba Namibia and Damara communities**

When looking at the socio-political situation of the traditional communities in central and southern Namibia, we have to acknowledge the different histories of the latter. Most of the Owambo communities and the communities of the Kavango and Caprivi Regions have a largely undisturbed history of succeeding members of their respective royal families. They have a history of succeeding traditional leaders within a structure of leadership, either affiliated to royal families or, where such a family does not exist, consolidated on an ancestrally determined territory.

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- 1 As the coordinator responsible for the Customary Law Ascertainment Project, I wish to express my particular gratitude to the traditional leaders of the communities whose laws are contained in this volume. Special words of thanks are addressed to Ms Jane Katjavivi, the Publisher of UNAM Press, and Dr Napandulwe Shiweda, from the same office. Their commitment went far beyond what an editor and author would expect from the publisher. I am also extremely pleased that Advocate Bience Gawanas accepted our request to write the Foreword to this second volume of *Customary law ascertained* and to join the Steering Committee for the preparation of an international conference to evaluate the Customary Law Ascertainment Project, and set the framework for the future work on customary law in Namibia. Last but not least, I wish to express my appreciation to the colleague who, as requested by UNAM Press, did the peer evaluation of this publication and who recommended several amendments which were accepted with thanks.
  - 2 However, these introductory remarks will only touch on some pertinent issues raised in the Namibian legal discourse. What has been said in Footnote 2 of the introductory remarks to the first volume of *Customary law ascertained* (see p 3 herein) could be further amended by references to discussions on contributions by scholars outside Namibia. Discussions of this kind will be considered in a forthcoming Namibia-focused publication on customary law.

The colonial governments had no interest in introducing changes as long as the colonial status quo as such was accepted. In this sense, it was part of colonial policy to administer Caprivi, Kavango and Owamboland in line with what is known as *indirect rule*.<sup>3</sup>

The application of indirect rule in the stated parts of the colony led to substantial jurisprudential changes, the most important of which was the expropriation of traditional sovereignty. Colonial rule stripped the thus far sovereign traditional political entities of their sovereignty. Indirect rule rendered – or at least had the intention to render – independent kingdoms as sub-central political entities, the purpose of which was to administer their territories for the colonial government. Although the degree of change following this expected transformation depended on the circumstances, the traditional foundation of the various communities nevertheless survived the transformation and subsequent inroads into their political, cultural and social set-up in many cases. Thus, the traditional foundation survived as part of the communities' visible life; and where it was suppressed by colonial forces or forces associated with colonialism, e.g. the impositions by missionaries, that foundation survived in the communities' invisible life, or in their subconscious. The administration of customary law, the making of it, amending it, and applying it in traditional courts are important areas in which many parts remained in the communities' visible life.

The social and political context of the communities whose laws are contained in this second volume of *Customary law ascertained* differs from the summarised social and political context of the Owambo, Kavango and Caprivi communities, that is, communities outside of what was commonly referred to as the Police Zone.<sup>4</sup> The Bakgalagari, the Batswana ba Namibia and the majority of the Damara were not subject to the kind of indirect rule as was applied to Owambo, Kavango and Caprivi. In other words, the socio-political history of the communities in central and southern Namibia – and this includes also communities whose laws will be found in Volume 3 of *Customary law ascertained*<sup>5</sup> – is the history of territorial expropriation, forced removal and concentration in reserves, and of political degradation in the interest of colonial expansion and settlement. All these inroads into the traditional structures of the communities resulted in substantial changes in their political organisation, their understanding of the law, and the administration of it.<sup>6</sup> Mechanisms closer to indirect rule were only implemented in central and southern

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3 In terms of British colonial policy!

4 The *Police Zone* was established by the German colonial administration to separate the northern areas (Bushmanland, Caprivi, Kaokoveld, Kavango, and Owamboland, to use the territorial terms applied before the restructuring of the country into Regions after Namibia's independence in 1990) from the central and southern parts of the land, which were of direct interest to administration and settlement. (Cf. Du Pisani, André. 1986. *SWA/Namibia: The politics of continuity and change*. Johannesburg: Jonathan Ball Publishers, p 23.) The division of the country into two zones is still of relevance today. Apart from the fact that the border of the Police Zone marks the so-called Red Line that prohibits the free movement of livestock.

5 The Otjiherero-speaking communities, the Nama, and the San.

6 Some of these inroads are described in Hinz, MO (assisted by S Joas). 2003. *Customary law in Namibia: Development and perspective* (Eighth Edition). Windhoek: Centre for Applied Social Sciences, pp 31ff and 101ff.

Namibia by the South African government with the introduction of the apartheid-based separate development that culminated in the establishment of the second tier governments in 1980.<sup>7</sup> The policy of second tier governments applied countrywide. However, the different exposure to colonialism created special problems to the efforts of the central and southern traditional communities to reappropriate their traditional foundation and its application to changed times.<sup>8</sup>

The texts submitted by the communities assembled in this publication reflect this difficult socio-political history. There are elaborated community profiles, which required special attempts to set the framework of the respective group identity. The laws have many sections on the communities' constitutional structure. The laws are also very detailed – as a result of the need to establish the administration of law in a way not practised as it is now envisaged.<sup>9</sup>

A further special difficulty for many communities in the central and southern part of the country is that many of them are “communities at large”.<sup>10</sup> Indeed, one finds Damara communities spread out over almost all parts of central and southern Namibia. All these groups have their own history and political development.<sup>11</sup> There is, nevertheless, a

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7 Cf. Representative Authority Proclamation (AG 8 of 1980) and the various subsequent proclamations establishing Representative Authorities for 11 population groups. AG 8 of 1980 and the subsequent proclamations were repealed by the Namibian Constitution in 1990; see Article 148 of the Constitution and its Schedule 8.

8 Cf. here again, Hinz (2003:31ff, 101ff).

9 Before the Community Courts Act, 2003 (No. 10 of 2003), the Tswana Chief and Headmen Ordinance No. 3 of 1986 as well as the Damara Community and Regional Authorities and Paramount Chief and Headmen Ordinance 2 of 1986 governed the administration of traditional justice of the communities whose laws appear in this volume of customary law ascertained. These two Ordinances were only repealed by the Community Courts Act (cf. Schedule to section 33 of the Act). However, not much is known about the way the courts of the Setswana-speaking community and the Damara courts worked not only under the quoted Ordinances, but also outside them, as dispute settlement bodies at the lower levels of the communities. Consultations which the Customary Law Ascertainment Project had with Damara leaders suggest that, at least at local level, disputes were most probably settled in relatively informal community negotiations. The Project was also unfortunately unable to search for Damara and Tswana court casebooks with their records of decided cases; this is certainly an area for future research.

10 Cf. Commission of Inquiry into Matters Relating to Chiefs, Headmen and Other Traditional and Tribal Leaders. 1991. *Report*. Windhoek: Republic of Namibia. The Report speaks of the Chiefs of the Damara and the Otjiherero-speaking communities – and, to some extent, also in view of the Setswana-speaking communities – as chiefs at large (ibid.:76).

11 Cf. Inskeep, A. 2002. *H. Vedder's The Bergdama: An annotated translation of the German original with additional ethnographic material*. Köln: Rüdiger Köppe Verlag, pp 55ff. Inskeep/Vedder mention 11 “tribes”, 7 of which enjoy recognition in terms of the Traditional Authorities Act, 2000 (No. 25 of 2000). Interestingly, Vedder is reluctant to call the Damara a *tribe* (see Vedder, H. 1928/1966. “The Berg Damara”. In Hahn, CHL, H Vedder & L Fourie (Eds). *The native tribes of South West Africa*. London: Frank Cass & Co, p 42). Furthermore, for Vedder,

feeling of belonging together that is reflected in attempts to create structures that express this sentiment. For example, there was a time when the Damara were registered in terms of the Traditional Authorities Act<sup>12</sup> as one community – the Royal Damara House.<sup>13</sup> This lasted for quite a number of years, i.e. until 2002, when the Royal Damara House was deregistered.<sup>14</sup> A process of restructuring led to the registration of various Damara communities under their own, independent supreme leaders.<sup>15</sup>

The situation of the Bakgalagari and Batswana is partly comparable to the Damara. The texts submitted by the two groups are very extensive with respect not only to the profiles of the communities, but also to the laws. Both groups are not very large in number, both entered Namibia relatively late, and both live in an area where other traditional communities live – namely Otjiherero-speaking peoples and San.<sup>16</sup> However, there is a need to detail each community's view of its history and culture, but also the laws to be administered by their respective courts.

The editors decided to accept even very long texts, such as the one submitted by the Batswana ba Namibia, as it was not to the editors to intervene in the difficult processes of self-stating and making customary law.

### **Self-stating and the codification of customary law**

The introductory remarks to Volume 1 of *Customary law ascertained* have already explained what *codification* and what the *self-statement* of customary law means. This will not be repeated here. However, four points raised after the publication of the first volume need some further comment.

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the 11 groups are “divisions”. Without going into further detail, it is clear that the observations in the two quotations prompt a political anthropological enquiry, which is obviously lacking in both publications (i.e. in terms of the models of authority as suggested in Fortes, M & EE Evans-Pritchard. 1966. “Introduction”. In Fortes, M & EE Evans-Pritchard (Eds). *African political systems*. London/New York/Toronto: Oxford University Press, pp 1ff). As the criterion for reception in the publications of the Customary Law Ascertainment Project was whether or not a community and its leader were recognised in terms of the Traditional Authorities Act, it was not to this publication to comment on the movement to change the leadership in some of the Damara communities.

12 No. 13 of 1997.

13 Under one supreme leader, *Gaob* Justus I!Garoëb; see 4.1, *Government Notice* 65 of 1998. As neither the original Traditional Authorities Act, 1995 (No. 17 of 1995) nor the current version (No. 25 of 2000) recognises the position of Paramount Chief, the structure suggested in the application for the recognition of the Royal Damara House was to have the King as the supreme leader and several Chiefs as Senior Traditional Councillors. This information is on record in documents on file with the Centre for Applied Social Sciences at the University of Namibia.

14 *Government Notice* 64 of 2002; see specifically Part II amending *Government Notice* 65 of 1998.

15 See Proclamation No. 3 of 2002.

16 Cf. Here Otto, A. 2011. “‘May we Bechuanas have air and light that we can again exist’: Notes on the history of the BaTswana people of Namibia”. *Journal* (Namibia Scientific Society), 59:15ff. What is said in Footnote 10 above on the administration of justice by Damara courts also applies – at least to some extent – to the Bakgalagari and Batswana. The Bakgalagari received official recognition only under the Traditional Authorities Act.

The first point relates to the self-statement of customary law. It so happened that some self-stated customary laws<sup>17</sup> refer to themselves as having been *codified*. In editing the laws, we were tempted to suggest the removal of the word *codification* to the community that had used the term. However, we eventually left *codification* in the submitted text. We did this in line with the general policy of the Customary Law Ascertainment Project to leave the submitted text as it is wherever possible. The regulations in the self-stated laws may be challenged when Community Court decisions go on appeal to state courts. Customary law may also be challenged through public debates to which traditional communities may respond. Apart from amendments to statutes by Parliament, this is how the Namibian legal system provides for problems when they arise as to whether or not a law exists, or whether or not a piece of legislation is in accordance with the law prevailing over customary law.

In other words, it is left to interpretation by the respective Traditional Authority or competent court to decide whether or not the qualification of the self-stated law as *codification* is a mere folk qualification. Whatever the result, one needs to bear in mind that it is still up to the discretion of the traditional community to change the contents of their self-stated law in exercising their authority in terms of section 3(3)(c) of the Traditional Authorities Act, according to which they have the power “to make customary law”.

The second point relates to one of the scholarly comments on the first volume of *Customary law ascertained*, where it was held that the mere conversion of orally transmitted customary law into writing may carry the danger of changing the attitude towards customary law by regarding the written version of it as inflexible – as is the case with Acts of Parliament. It was argued that, although the *writing down* of customary law was not meant to be the same as its *codification*, it would gain this quality in practice and, thus, replace other, particularly oral, sources of customary law. State courts are also expected to contribute to this development, as they may take the self-stated versions of customary law as the final word on the law concerned.<sup>18</sup>

Whether or not this will happen will become evident when Community Courts become fully operational, and decisions are taken on appeal to state courts. What happens then will depend not only on how the traditional communities and their courts apply their laws, but also on how they may make use of their power “to make customary law”, as spelled out in the Traditional Authorities Act. The legal outcomes will also depend on the general development of jurisprudential reflections on the operation of customary law.

The third point raised to the editors refers to the process of self-stating and making of customary law employed by the various traditional communities. “I was not consulted,” were comments by some members of the communities whose laws are contained in this volume of *Customary law ascertained* and the third volume that will follow soon. Comments

17 In respect of the Damara communities, those of the /*Khomanin* apply here (see pp 313–359).

18 For a review, see Horn, N. 2011. “Customary law ascertained. Volume 1. The customary law of the Owambo, Kavango and Caprivi communities of Namibia”. *Namibia Law Journal*, 3(1):133ff, 137ff.

of this nature were brought to the attention of the editors when the publication of this and the third volume of *Customary law ascertained* was announced in Namibian newspapers. The reader will see when going through the self-stated customary laws of the various communities that, indeed, some of the communities have rules on how to make customary law. However, as the editors of *Customary law ascertained*, we did not see it to be our task to control whether or not the communities followed their rules when ascertaining their laws and making customary law.<sup>19</sup> All that we expected was a certificate of consent to publish the documents submitted to us, duly signed and stamped by the respective Traditional Authority.

The fourth point submitted was whether the self-stated laws were ‘old’ or ‘new’ customary law, that is, the law stated as the law of the olden days and, therefore, not of relevance today, or the law assembled in *Customary law ascertained*, i.e. the law as applied today. The reader will find that some documents in *Customary law ascertained* recall a time of the ancestors. However, this appears to be only points of reference on which statements for today are built. The many consultations conducted during the Ascertainment of Customary Law Project left no doubt that *Customary law ascertained* was not meant to be a contribution to the history of customary law, but a reflection of the customary law as it is currently being applied. To what extent the communities met the expectation to self-state the presently applicable law must be left to the further process on the various customary laws.

### **Legal pluralism and the jurisprudential assessment of customary law**

Article 66(1) of the Namibian Constitution recognises that Namibia’s legal order is pluralistic: there is, on the one hand, the system of general law (Roman–Dutch common law and the statutory enactments) and, on the other, a plurality of customary laws. Both spheres do not only coexist, they are interlinked. A number of rules have also been explicitly set by the state to regulate the relationship between general law and customary law. This regulation starts with the constitutional rule just quoted, which subjects customary law to the Constitution and other statutory law, and extends to such statutory enactments that deal with matters under customary law.<sup>20</sup> There are also many rules of common law that offer themselves for application to customary law.

However, we have observed that the statutory law in place leaves us without answers to many questions.<sup>21</sup> Before we accept offers of common law for the application of

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19 However, it should be mentioned that it was always part of the advice given to the various communities when having consultations within the Ascertainment of Customary Law Project that it was important for the widest possible acceptance of customary law to include all sections of the community, particularly women.

20 Such as the Traditional Authorities Act and the Community Courts Act.

21 Jurisdiction in murder or rape cases (see here also Horn 2011:139f) is one of those questions: the law of the state and some customary laws require jurisdiction. What should happen when a person has spent time in prison after a conviction of murder, and is then called by a Community Court to pay compensation?



customary law, we have to question the rationale behind those offers, and we have to consider whether or not the rationale behind the application to customary law is reasonable.<sup>22</sup> Filling of statutory gaps and applying rules of common law to customary law, however, require the jurisprudential understanding of legal pluralism. Accepting legal pluralism means accepting the differences in the operation and functioning of such plural legal strata. As much as the ascertainment of customary law by way of various traditional communities self-stating their law may be welcomed as a contribution to legal certainty and the rule of law, the fact that customary law has been ascertained in the manner described does not automatically imply that the concepts and rules in operating the general law should similarly be applied to customary law – at least as long as the operation of customary law remains within the framework provided for by the general confirmation and recognition of customary law in Article 66 of the Namibian Constitution!

In other words, there is jurisprudential work ahead. The introductory remarks in the first volume of *Customary law ascertained* noted that the ascertainment of such law remains a work in progress. To use a picture to illustrate this: *Customary law ascertained* is a photo taken of a process that goes on, that is influenced by the application of the law, that is influenced by decisions to revise the law in order to meet new realities and in order to meet standards set by the legal order of the country – including its constitutional order.

Conventionally arguing legal minds may have difficulty with what is termed the *flexibility* of customary law, and may plead for one straightforward legal system without such flexibility; but legal anthropology has dismantled this centralist understanding of law as an illusion! What this leaves us with are the jurisprudential challenges of legal pluralism. *Customary law ascertained* can only open up the debate on those challenges; and it is a debate to which all concerned must contribute.<sup>23</sup> The coexistence of the various strata of law will only lead to a functioning legal system – a system that provides justice and, with this, the enjoyment of human rights as they are guaranteed in the Namibian Constitution and international instruments to which Namibia is a signatory – if research, legal education, the law-applying profession and the public at large take note of these challenges.<sup>24</sup> Only by accepting these challenges will the picture of the process that is mirrored in *Customary law ascertained* lead to an improved legal order.

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22 The common law doctrine of *stare decisis*, according to which certain statements of higher state courts have the quality of binding law, exemplifies this. Whether and, if so, to what extent *stare decisis* will apply in matters of customary law is, indeed, debatable; see here also Horn (ibid.:139).

23 It is correct, therefore, that Horn (ibid.:140) ends his review of the first volume of *Customary law ascertained* with the following statement: “If one consults *Customary law ascertained* one thing is clear: the line between the jurisdictions of common law and customary law still needs to be drawn”.

24 Cf. here Hinz, MO. 2011. “African customary law – Its place in law and legal education”. *Journal* (Namibia Scientific Society), 59:83ff.

## EDITORS' GENERAL NOTE

This note repeats some of the statements made in the introductory remarks to assist the user of the laws contained in this publication.

It was up to the communities to decide what aspect of customary law they wanted to have ascertained in writing. The self-statements do not intend to repeal orally transmitted customary law, nor parts of it: the orally transmitted customary law remains valid, and will assist in interpreting the stated rules. This means that the self-stated laws of the various communities are not codifications of customary law.

Legislative drafting has developed into a very specialised art in many modern jurisdictions. However, the reader of the self-stated laws should not expect that these laws follow the sophisticated techniques of modern legislative drafting. In many instances, the self-stated customary laws give educative explanations or even state rather general societal aspirations – a fact which will be a challenge to interpretation!

As the communities are the lawmakers, they also have the authority to amend their laws, subject to the applicable customary and statutory law, including the Namibian Constitution. The fact that the communities have accepted to write down parts of their customary law does not affect the generally employed flexibility of customary law, according to which the restoration of peace is the primary objective.

Many of the laws contained in this volume were originally written in indigenous languages and, thereafter, translated into English. This created many problems as the English legal terms are not necessarily always a proper reflection of what the source languages wanted to express. This means that, in cases of doubt, the text in the source language has to be consulted for clarification.

Although the editors and translators have made every attempt to ensure that the materials are accurate in their formal presentation, omissions, inadequacies or errors that remain as regards the content of such materials are the responsibility of the various Traditional Authorities that submitted them. The editors have deleted obvious repetitions and corrected language errors. When the editors had difficulty in understanding the meaning in a submitted text, they consulted the relevant Traditional Authority to receive clarification. It was not the task of the Customary Law Ascertainment Project to check the submitted laws with respect to their compatibility with the law of the state, including the constitutional law of Namibia. Checking this and, where necessary, working on amendments to customary law, must be left to the established procedures of the Namibian Parliament, the courts and the public debate at large.

In cases where the supreme leader of a Traditional Authority had passed away and no new leader had been gazetted, the picture of the deceased leader was kept in front of the respective community profile.



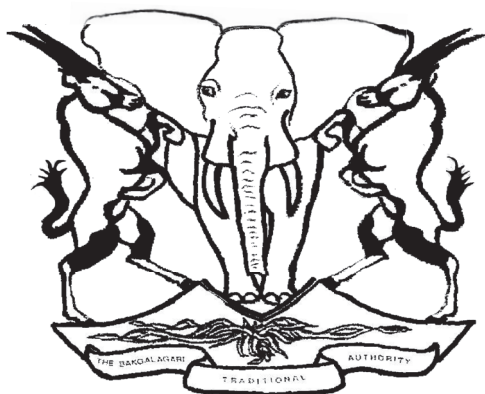
During the editorial process, the editor has received comments by members of some traditional communities who complained that they were “not consulted” in the drafting of the self-stated customary law of their community. The editors’ response was that it was not the task of the Customary Law Ascertainment Project to intervene in the process of the self-stating by the communities. The Project conducted consultations with all the recognised traditional communities in Namibia, during which the communities were advised to do the self-stating in accordance with their respective rules. The Project recommended to the Traditional Authorities – in accordance with the gender policies of Namibia – to involve the voices of women, but again stated in clear terms that it would be up to the Traditional Authorities and communities to proceed with the drafting, as it was requested by their rules and customs. For the Project and the edition of the customary laws, it was eventually important to have the certificate of consent to publish the customary laws signed by the Traditional Authority. Whoever in a given traditional community is not satisfied with what has been submitted to the Project for publication is of course free to pursue his/her concern within the community and the public at large. Concerns of this nature will also remain qualified as arguments before Community Courts and a state court in the adjudication of cases.



**THE BAKGALAGARI TRADITIONAL AUTHORITY**  
**BOGOSI JWA BAKGALAGARI**



The supreme leader of the Bakgalagari traditional community is *Kgosi*<sup>1</sup> Hurbert Tidimalo Ditshabue.  
Date of designation: 18 April 1992



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1 Traditional title in terms of section 11, Traditional Authorities Act, 2000 (No. 25 of 2000).

## PROFILE<sup>2</sup>

The Bakgalagari reside in eastern Namibia, in the Aminuis Constituency at Korikong, Ahekobe. In 1979, some members of the community moved to Corridor 12, Koridor 13, Koridor 18, Corridor 20, Corridor 21 and Corridor 22. The entire community now live in these Corridors. The first arrival of the Bakgalagari in the Aminuis Constituency was in 1858. The Bakgalagari praise themselves as *Bakgalagari bana ba tlou* (literally, the Bakgalagari, children of the elephant).

Some of the pans (*metswedi*) belonging to the Bakgalagari are known as the Bakgalagari Pans. Settlers added to the growing population, with some settling next to the pans. As a result, the pans were named after them, e.g. *kaba la* Bakgalagari (Bakgalagari Pans), *kaba la ga Pietenyane* (Pietnyane Pans), *kaba ya ga Ditshabue* (Ditshabue Pans), *molapo wa Thebeyame* (Thebenyane Stream).

Natural resources are the main wealth of the Bakgalagari. There is one salt pan, namely the Mokaleng, and two water pans, namely the Molapo-Mogolo and the Shikokana.

The wild plants that are significant to the community are berry trees (*boroka, keme, leshaba, ligiye lethokwe, mabowa, magapu, masenopu, mokwa, rethama, rekgalo, and rephotswa*).

Animals are important to the economy and they should be protected and respected so that they do not become extinct. Livestock and wild animals provide the veld and forest with manure. Animals are sources of wealth to the country, while abattoirs provide employment – and are even a tourist attraction.

Wildlife has dramatically reduced. As a result, children do not even know what wild animals there are.

They are some sacred places with historical significance. These lie in the vicinity of Molapo-Mogolo. They are situated at Corridor 20, an old place bounded by villages around it. These sacred places were used as a venue for meetings.

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2 This profile was submitted by the Bakgalagari Traditional Authority.



# MOLAO WA SETSO WA BAKGALAGARI





# Molao-Motheo wa bogosi jwa setso sa Bakgalagari<sup>3</sup>

## Maitlamo

Bogosi jwa Setso sa Bakgalagari bona le maikaelelo a go rotloetsa morafe wa Bakgalagari go amogela le go ithuta tsa setso le ngwao. Re morafe o o nang le dipolelo tsa tlhologo tse di tswang bogologolo ka ngwaga wa 1858. Mme re leka ka bojotlhe gore batho ba amogele ebile ba lemoge bomosola jwa setso le ngwao.

Dipolelo tsa tlhologo ya rona di supa fa bogosi jwa rona bo tlhologa kwa Botswana tlase ga Kgosi-kgolo Mosiiwa, ka ngwaga wa 1992 kgwedi ya Moranang e tlhola malatsi ale lesome le bofera-bobedi (18). Bogosi jwa Setsho sa Bakgalagari bo amogetswe mme bo tlhomamisiwa ke Puso ya Namibia, tlase ga Kgosi-kgolo wa ntlha e bong Kgosi Tidimalo Hubert Ditshabue.

MME re le bogosi re tla leka ka thata go tsosolosa setso, ngwao, ditumelo le melawana, tse di neng tsa senngwa ke Puso ya ditsuoludi.

MME re le bogosi re tla leka ka thata go godisa le go tshwaraganela botsala le dingwao tse dingwe mo go dirisanyeng ga ngwao ya rona.

MME re le bogosi re tla leka ka thata go tsewedisa le go somarela melao ya ngwao, puo le teme, dipolelo tsa tlhologo, botsogo mo morafeng wa rona, mme re bee leitlho kgodiso ya banana ba rona.

MME re le ba bogosi re tla leka ka bonatla go tlhomamisa ditlhaeletsanyo le tirisanyo e e siameng le puso.

JAANONG, re le bogosi re amogela le gone re tlotla Molao-motheo wa Namibia e le molao mogolo o o busang lefatshe.

## 1. Bogosi jwasetso

- (a) Bogosi jwa Bakgalagari bo tlhologile ka ngwaga wa 1858 kwa Botswana, ka fa tlase ga Kgosi-kgolo Mosiiwa. Go tsweng ngwaga wa 1992, kgwedi ya Moranang e tlhola malatsi a le lesome le bofera-bobedi (18), bogosi jwa rona jwa amogelwa mo Namibia. Bogosi bo tlhomamisitswe ke molao wa Bogosi jwa ditso wa 1995 (molao wa lesome le bosupa [17] wa ngwaga wa 1995) (o jaanong e leng molao wa bo masome a mabedi le botlhano, wa ngwaga wa 2000) mo Namibia. Morafe wa Bakgalagari o ne o tshela

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3 O dumalanwe ka 25 Phukwi 2010, mo phuthegong ya lekgotla la setso e e neng e tshwaretswe mo Korridor 13, Aminuis Constituency, Omaheke Region.

ka temo-thuo le letsomo. Ba ne ba reka dithoto ka dithoto tse ba nang le tsone tse ba sa di tlhokeng, jaaka matlalo. Ke batho ba ba dumelang mo phodisong le bongaka jwa setso.

- (b) Bakgalagari ke morafe o o potlana e dikete di matlhano (5,000). Bontsi jwa bone bo agile mo Korridor, mo kgaolong ya Aminuis mo go tlhomilweng Ofisi-kgolo ya Bogosi mo Kgaolo-kgolo ya Omaheke.
- (c) Maikaelelo magolo ke go rotloetsa Bakgalagari go ithuta dipolelo tsa tlholego ya bone le go itse ka tsa ngwao, tse di tlhomilweng ke borragwe-mogolo go tswa dikokomaneng, jaaka teme le tsamaiso ya ditso. Le go rotloetsa mekgatlho ya banana go ithuta dipina tsa tlholego.
- (d) Bogosi bo tshwanetse go tlhomamisa tse di latelang:
  - (i) Go tsamaisa molao ka fa mokgweng
  - (ii) Go tlhokomela dithoto tsa morafe
  - (iii) Go godisa thuto ya teme ya Sekgalagari le ditso mo morafeng
  - (iv) Go itsese sechaba dikitsiso tse di botlhokwa tsa ditlhabololo, le go ba kopanya le tsa tsamaiso ya puso ka kakaretso.
- (e) Bogosi bo ikaeletse go dirisanya le makgamu otlhe a baitlhaopi a a ikemetseng ka bo nosi, mo go tsa ditlhabololo tse di tla thusang morafe.
- (f) Bogosi bo ikemiseditse go kopana le makgamu a baitlhaopi a a ikemetse ka nosi le morafe ka kakaretso mo go kwaleng melao le go e fetola.

### 1.1 (a) **Folaga**

Mebala ya folaga ya rona e ntse jaana:

- (i) Botalalbopududu jwa loapi
- (ii) Bosweu
- (iii) Botala jwa bojang

Mebala e e tlhatlagane.

### (b) **Pina ya morafe**

Modimo Rraetsho re go lopa pula, o tla e bona mo mokwalong A.

### (c) **Sereto**

Tlou ke phologolo ya sereto sa Bakgalagari. Tlholego ya sereto se ke gore, ditlou di ne di latelwa mo sekakeng sa Kgalagari gonne di ne di epa metsi. Jalo di ne di bonwa jaaka botsadi jwa rona mo malatsing ao.

### (d) **Lenyalo**

- (i) Ka fa ngwaong, botsadi jwa ngwana wa mosimane bo kopana le jwa

ngwana wa mosetsana go bega patlo ya nyalo. Mme go tlisiwa tse di laelang:

- (aa) Tukwi
- (bb) Kobo
- (cc) Pholo ya nku/podi
- (dd) Ditlhatlhego (tse di neelwang mmagwaneatsone)
- (ii) Tse di isiwa ko ga bomme:
  - (aa) Pholo (pelesa)
  - (bb) Ditlhatlhego
  - (cc) Mokwele – go kgola disana pele ga lenyalo
- (iii) Tse di ya ko ga bo rre
  - (aa) Pholo
  - (bb) Ditlhatlhego
- (iv) Mokete wa nyalo
  - (aa) Pholo (pelesa) e tswa mo botsading jwa mosetsana, e ka tswa mo go rranwaneatsone kana mmagwaneatsone, e e bolawang mo lenyalong.
  - (bb) Dilwana tsa ntlo le dijo di a rekwa, di ka kopanelwa le borra mosimane.
  - (cc) Boora monna ba reka dijo tsa mokete.
  - (dd) Magadillobola ke selekanyo sa dikgomo di le thataro kana madi a selekanyo sa dikgomo tse thataro (dikete tse thataro). Ka jalo, go nale dituelo dingwe tse di duelwang ke batsadi be mosimane e le ka ga tsamaiso ya ngwao.
- (v) Morago ga mong, fa go nale ngwana yo o tshotsweng ko ntle ga lenyalo, o letlelelwa go dirisa sefane/leina la ga rraagwe.

### **(e) Tlhokomelo**

- (i) Ngwana wa mosetsana fa a nna moimana ka ngwana wa ntlha go tshwanetse ga duelwa ‘tiga-lebele’. Monna yo omo imisitseng o bonwa molato wa ‘tiga-lebele’, o tshwanetse go duela dikgomo di le thataro. Tuelo e e dueelwa kwa batsading ba mosetsana.
- (ii) Monna fa a ka nna le mosetsana digwaga tse nne kgotsa go feta, fa ba kgaogana ba tshwanetse go kgaogana dithoto ka go lekana gonne ba ne ba nna jaaka banyalani. Mme, go tshegetsa ngwao ya rona monna o rotlediwa go nyala, e seng jalo o tseelwa dikgato tse di tshwanetseng.
- (iii) Mosetsana fa a nale bogole mo mmeleng kana e le molwetse wa tlhaloganyo, a be a imisiwa, dituelo di tshwana fela le tsa mosetsana yo o itekanetseng.
- (iv) Monna fa a imisitse mosetsana, morago ga tiga-lebele, o tshwanetse go duela dikota fa a sa tlhokomele bana. O tshwanetse go duela dikgomo tse thataro kana madi a dikete tse thataro (a a lekanang

dikgomo tse thataro). Thata ga go duelwe go lebilwe palo ya bana. Madi a a dirisiwa go tlhokomela le go godisa bana.

- (v) Monna fa a imisise mosetsana, batsadi ba gagwe ba tlhokega go itsese tshenyo ya ngwana wa bone kwa batsading ba mosetsana.

**(f) Boswa**

- (i) Fa tlhogo ya lelwapa, ebong monna a tlhokafala, motlholagadi le bana ba ba tsetsweng mo lenyalong ba fiwa boswa. Mme fa e le mosadi a tlhokafetseng, monna le bana ba ba setseng ba fiwa boswa jwa bone fela jalo.
- (ii) Fa go nale bana ba ba tshotsweng kwa ntle ga lenyalo, ba tshwanetse go fiwa boswa jwa batsadi morago ga loso. Mme fa go nale bana ba ba potlana ka dingwaga, bo rrangwaneabone ba tlhokomela boswa jwa bone go fitlhela ba gola, ke gone ba ka tsayang boswa jwa bone.
- (iii) Fa batsadi botlhe ba tlhokafala, ke gone fa boswa bo kgaogangwang bana le ba losika.

**1.2 Kgosi**

- (a) Kgosi ke ene tlhogo-kgolo ya bogosi jwa setso sa Bakgalagari. O tlhomiwa ke ba ntlo ya bogosi.
- (b) Kgosi ke ene tlhogo-kgolo le moeteledipele yo mogolo wa morafe wa Bakgalagari.

**1.2.1 Ditiro tsa kgosi**

- (a) O tshwanetse go tshegetsa le go somarela molao wa setso sa morafe o a o eteletse pele.
- (b) O tshwanetse go dirisa dithata tse a nang le tsone go tsamaisa ditiro tsa morafe ka fa ngwaong.
- (c) O nale thata ya go tlhoma mongwe kgotsa bangwe go tswa mo morafeng wa gagwe go mo emela fa a sa kgoneng mo boeng jwa gagwe.
- (d) O nale le thata ya go tlhoma mongwe, Kana bangwe ba dikgosana tsa gagwe go mo thusa mo tsamaisong ya tsa semorafe, kana tsa makalana a se morafe.

**1.2.2 Go ntshiwa ga kgosi mo bogosing**

- (a) Kgosi o tshwanetse go tloswa mo bogosing ka fa tsamaisong ya molao wa setso sa Bakgalagari. Go tshwanetse go nna le mabaka a a nonofileng jaaka a latelang:

- (i) Boaka
- (ii) Go golafala
- (iii) Botsofe kgotsa fa a tlogela ka bo ene
- (iv) Fa o nale melato ee feteletseng ya borukhutlhi
- (v) Leso
- (b) Go tlhokafala gore morago ga dipuisano tsa go tlogaltloswa ga ga kgosi mo setilong, fa gare ga lekgotlana la bagakolodi ba kgosi ga mmogo le bantlo ya bogosi, kgang e tshwannetse go fitisetswa kwa go Tona ya Lephata la tsamaiso ya bogosi ke ba lekgotlana la motse.

### **1.3 Dikgosana**

#### **1.3.1 Go tlhomiwa ga dikgosana**

- (a) Dikgosana di tlhomiwa ke morafe wa Bakgalagari ka go tlhopha ka fa tsamaisong ya Lekgotlana la tsa Semorafe (Traditional Council).
- (b) Kgosi o nale thata ya go tlhoma modula-setilo wa makalana a tsamaiso ya morafe go nna ene mothusi wa gagwe.
- (c) Dikgosana di tlamega go thusa le go tsamaisa tswelelopele ya ditsamaiso tsa morafe, mmogo le tsa setso le ngwao.

#### **1.3.2 Go tlhomiwa ga Bathusa Dikgosana**

- (a) Ba tlhophiwa ke morafe wa Bakgalagari ka kakaretso ka ditlhopho ka fa tsamaisong ya Lekgotla la semorafe (Traditional Council).
- (b) Ba tshwanetse go thusa mo mananeong a ditsamaiso tsa morafe mo go tsa setso le ngwao.

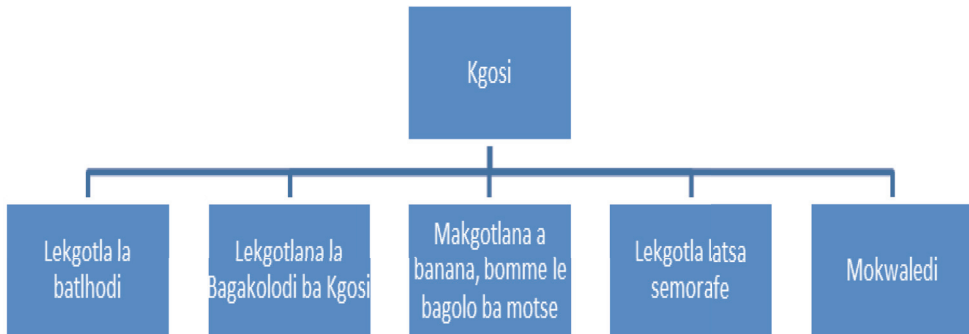
### **1.4 Mokwaledi**

- (a) Mokwaledi ke motsamaiso wa ofisi ya Kgosi-kgolo.
- (b) O tshwanetse go nna motho yo o tshephegang, ebile a ikanyega ka fa tlase ga molao.
- (c) O tshwanetse go tshegetsa diphiri tsotlhe tsa ofisi ya gagwe ya bodirelo.

### **1.5 Modulasetilo**

- (a) Modula-setilo o tla tsamaisa diphuthego tsotlhe tse di kwa tlase ga tsamaiso ya gagwe le go tlhomamisa gore mokwalo otlhe wa diphuthego o somarelwa ka fa mokgweng.
- (b) O tlhomamisa lenaneo la dipuisano tsa phuthego fa a sena go rerisanya le kgosi le mokwaledi.
- (c) O tshwanetse go tlhomamisa gore diphuthego di nale batho ba ba lekaneng.

## 1.6 Go lebeга ga tsamaiso ya bogosi



### 1.6.1 Lekgotla latsa semorafe

- Maloko a lone ke Kgosi Maloko otlhe a makgotlana a tsamaiso ya morafe a e leng Lekgotlana la Bagakolodi ba Kgosi (Chief's Council), Lekgotlana la Bagolwane ba Morafe (Elders' Council), le Lekgotlana la Ditsheko le Melawana ya morafe le baatlhodi (Judicial Council).
- Morago ga dipuisano magareng ga bone le morafe ba tlhomamisa badiredi ba makalana a a farologanyeng a makgotlana, jaaka Lekgotlana la Bagakolodi ba Kgosi (Chief's Council), Lekgotlana la Bagolwane ba Morafe (Elders' Council), le Lekgotlana la Ditsheko le Melawana ya morafe le baatlhodi (Judicial Council).
- Maloko a lekgotlana a ka gakolola kgosi mo tiisong ya dithata tsa gagwe mo go tsa semorafe.
- Ke lone lekgotlana le le nang le thata ya go tsaya ditshwetso mo tsamaisong ya morafe.

### 1.6.2 Lekgotlana la Bagakolodi ba Kgosi (Chief's Council)

- Maloko a lone ke kgosi, dikgosana tsa gagwe, bathusi ba bone, modula-setilo le mokwaledi.
- Ke lekgotla le le kuelang ko kgosing.
- Ke lekgotla la bogakolodi go kgosi.
- Ke lekgotla la bodiri jwa melao ya samaiso ya Bogosi.

### 1.6.3 Makgotlana a banana, bomme le bagolo ba motse

- Lekalana la banana
  - Lekalana le tla rotloetsa tsamaiso ya ditso tsa semorafe.
  - Le tla rotloetsa banana/basha go ithuta dipina, mmino wa setso le go ba rotloetsa go bua puo ya bone ka bonatla.

- (b) Lekalana la Bomme
  - (i) Bomme ba tshameka karolo ee botlhokwa thata mo go tsa semorafe.
  - (ii) Bomme ba tshwanetse go ruta banana go godisa le go tlhokomela tsa ngwao le puo ya bone.
  - (iii) Ba tshwanetse go ela tlhoko gore botho bo a diragala mo malwapeng a bone le gore bo fetele mo dikokomaneng tsa bone.
- (c) Lekalana la bagolo ba Motse
  - (i) Ke bone bagolwane ba setso ba morafe.
  - (ii) Ke bone bagakolodi ba Bogosi jwa Setso le morafe ka kakaretso.
  - (iii) Ke bone bararabolodi ba mathata fa a le teng mo malokong a bogosi.
  - (iv) Ba na le seabe se segolo mo ntlong ya Kgosi, mme ba nne le puisano le maloko a ntlo ya bogosi.

#### **1.6.4 Kgotla**

- (a) Ke lefelo le go direlwang dilo tsotllhe tsa ngwao ya morafe jaaka tse:
  - (i) Go amogela baeng ba tlotla.
  - (ii) Manyalo a ngwao.
  - (iii) Dilo tsotlhe tsa ngwao.
  - (iv) Go gasa melaetsa ya botlhokwa.
  - (v) Dithuto tsa maloko a morafe.
- (b) Diphuthego le bokopano jwa mofare
  - (i) Diphuthego tse di biletswa go gasa melaetsa e e botlhokwa.
  - (ii) Go amogela baeng ba tlotla.
  - (iii) Go rarabolola mathata le dikgotlhang mo morafeng.
  - (iv) Go rarabolola dikgotlhang tsa borukhutlhi.
  - (v) Fa nako e tlhoka gore phuthego e bidiwe.

#### **1.6.5 Lekgotla la batlhodi**

- (a) Ke lekgotlana le le tsamaisang sengwe le sengwe se se amanang le tsamaiso ya ditshekiso le melawana ya setso ya morafe.
- (b) Le nale maphata a a latelang:
  - (i) Kgotla-kgolo ya Ditsheko
  - (ii) Kgotla ya ditsheko

#### **1.6.6 Kgotla-kgolo ya Ditsheko**

- (a) E etelelwa pele ke Kgosi (yo e leng moatlhodi mogolo wa Bogosi jwa Setso).
- (b) Go tla nna le maloko a le marataro a ba lekgotlana la tsa semorafe (Traditional Council), mme go tthomamisiwe gore bomme le bone e nna maloko.
- (c) Ba tla seka-seka ditsheko tsotlhe tse ditswang ko kgotleng ya Ditsheko ya morafe.

### 1.6.7 Kgotla ya ditsheko

- (a) E nale maloko a:
  - (i) Baatlhodi.
  - (ii) Basekaseki ba ditsheko.
  - (iii) Morongwa wa kgotla.
  - (iv) Mokwaledi wa dikgotla yo o kwalang ditsheko.
- (b) Ditiro tsotlhe tse ba di dirang di tlhomamisitswe mo molaong wa Goramente wa Baatlhodi.<sup>4</sup>

## 2. Dithata tsa go dira le go baakanya melao

Lekgotlana la tsa semorafe, morafe otlhe wa Bakgalagari le mekgatlho ya baitlhaopi ba na le thata ya go dira, go baakanya kgotsa go fetola le go tlhomamisa melao le melawana ya setso e e tla dirisiwang ke bogosi jwa bone.

## 3. Tiriso le go Tlhomiswa ga molao-motheo

### 3.1 Molao-motheo o o tshwanetse go tsenngwa mo tirisong leng?

Molao-motheo o, o tla tsenngwa mo tirisong morago ga ditumelano gareng ga ba lekgotlana la setso le makalana a mangwe.

### 3.2 Molao-motheo o o ka fetolwa jang?

Molao-motheo o, o tla fetolwa fa o gatelela morafe ebile o sa tsamaisane le molao-motheo wa lefatshe la Namibia, le fa go tlhokega.

### 3.3 Kgatiso ya ntlha (Official copy)

Kgatiso ya ntlha e tla supelwa ke kgosi e be somarelwa ke kgosi le morafe ka kakaretso.

[Signed]

Kgosi HT Ditshabue

BAKGALAGARI TRADITIONAL AUTHORITY



## THE LAWS OF THE BAKGALAGARI



# **The Constitution of the Bakgalagari Traditional Authority<sup>5</sup>**

## **Preamble**

The Bakgalagari Traditional Authority's aim is to encourage the Bakgalagari to accept and respect their traditional cultures and values. We are people whose history dates as far back as 1858, and we feel deeply obligated to do whatever is possible to ensure that our people acknowledge the importance of traditional values and culture.

Our historical background has its origins in Botswana under the leadership of the Paramount Chief Mosiwa. The Bakgalagari Traditional Authority was recognised by the Namibian Government on 18 April 1992 under the leadership of the first Namibian Paramount Chief, Tidimalo Hurbert Ditshabue.

WHEREAS the Traditional Authority will strive to restore the traditions, traditional rituals (rites), customs, beliefs, values and norms that were compromised during the colonial era;

WHEREAS the Traditional Authority will strive to develop and achieve cooperation and friendly relations with other Traditional Authorities and across cultures for the mutual benefit of the people;

WHEREAS the Traditional Authority will strive to promote and restore our customary law, history, language, culture and health within our community and particular attention will be given to our youth development in this regard; and

WHEREAS the Traditional Authority will strive to establish healthy networking and a good flow of information between the Government and itself;

NOW THEREFORE, the Traditional Authority accepts and respects the Constitution of the Republic of Namibia as the Supreme Law governing the country.

## **1. The Traditional Authority**

- (a) The Bakgalagari chieftainship came into existence in Botswana in 1858 under the leadership of the Paramount Chief Mosiwa. The Traditional Authority has been recognised in accordance with the Traditional Authorities Act, 1995 (No. 17 of 1995) and now Traditional Authorities Act, 2000 (No. 25 of 2000) in a democratic Namibia. The Bakgalagari subsist on agricultural produce and hunting. They also traded in goods such as leather products. They believe in traditional medicine and healers.

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<sup>5</sup> Adopted on 25 July 2010 at a Traditional Council meeting held at Corridor 13, Aminuis Constituency, Omaheke Region.

- (b) The Bakgalagari are a minority group of around 5,000 individuals in Namibia. The majority live in the Corridor/Aminuis Constituency in the Omaheke Region, where their Traditional Authority Head Office is located.
- (c) Our main aim shall be to promote the Bakgalagari historical background and culture as laid down by our ancestors, including our language and traditional customs, and to encourage the youth and concert groups to follow the Bakgalagari culture.
- (d) The Traditional Authority shall –
  - (i) ensure that law and order prevail in the community
  - (ii) take care of the community's property
  - (iii) develop the community's language and culture, and
  - (iv) keep the community informed, bring development, and in so doing link the community and the Government.
- (e) The Traditional Authority shall work hand-in-hand with non-governmental organisations (NGOs, which include community-based organisations and faith-based organisations) if their projects or programmes are productive for the community.
- (f) The Traditional Authority shall consult the community and NGOs on how laws are made and changed.

### **1.1 (a) The flag**

The colours of our flag shall be as follows:

- (i) Blue
- (ii) White
- (iii) Green

All the colours shall be horizontally parallel.

### **(b) Anthem**

The anthem shall be entitled *Modima Rraetsho re go kopa pula* ("Asking Almighty God for rain").

### **(c) Totem**

The elephant shall be our traditional totem. The history of this totem, according to the age-old Bakgalagari tradition and culture, refers to the community running after elephants in the Kgalagadi [Kalahari] Desert to get some water from them because they dug up water from the ground. So, in those days, the elephants were regarded as the parents of the community.

## (d) Marriage

- (i) Firstly, in accordance with custom, the man's parents shall go to the elders or parents of the woman to pose a 'thoughtful wish' of engagement. For the marriage (*patlo*), the following gifts shall be given:
  - (aa) A woman's head cloth (*tukwi*)
  - (bb) A blanket (*kobo*)
  - (cc) A castrated ram (*pholo ya nku*)
  - (dd) Beverages – tea, sugar, milk (*ditlhatlego*)
- (ii) The following shall go to the matrilineal lineage:
  - (aa) An ox (*pholo/pelesa*)
  - (bb) Beverages – tea, sugar, milk (*ditlhatlego*)
  - (cc) Pickaxe – for digging up tree roots
- (iii) The following shall go to the patrilineal lineage:
  - (aa) An ox (*pholo/pelesa*)
  - (bb) Beverages – tea, sugar, milk (*ditlhatlego*)
- (iv) Wedding ceremony
  - (aa) The woman's parents shall provide an ox (*pholo*) for slaughter.
  - (bb) Other household items and foodstuffs shall be made available; some shall also be provided by the man's family.
  - (cc) The man shall provide some foodstuffs for the wedding.
  - (dd) A lobola (*bogadi*) of a maximum of six head of cattle or their monetary equivalent (N\$6,000, i.e. six thousand Namibia Dollars) shall be provided by the man's side. There are also other payments that shall be paid by the man's parents, in accordance with the culture.
- (v) Thereafter, if there are any children born outside marriage they shall be permitted to use their father's surname.

## (e) Social welfare

- (i) The first-ever pregnancy resulting in a live birth shall be known as *tiga lebele*. Therefore, the male responsible for this pregnancy shall be guilty of an offence and liable to a fine not exceeding six head of cattle or their monetary equivalent (N\$6,000, i.e. six thousand Namibia Dollars) payable to the parents/elders of the impregnated woman, and shall be their due.
- (ii) If a man has lived with a woman for about four years or more and then leaves her, he shall equally share with her all properties they have accrued together. In order to avoid the erosion of our culture, however, a man may instead be cautiously encouraged to marry the woman to prevent these serious consequences.

- (iii) If a physically or mentally disabled woman is impregnated, the fine shall be the same as that for having impregnated an able woman.
- (iv) If a man impregnates a woman, he shall pay support of N\$6,000 (six thousand Namibia Dollars), irrespective of the number of children. This money shall mainly be used for the welfare of the children and their upbringing.
- (v) If a man impregnates a woman, his elders/parents shall contact the woman's parents to convey in person the message of the impregnation by their son.

**(f) Inheritance**

- (i) If the head of the household dies, the surviving spouse and the children, whether born in or outside the marriage, shall inherit the entire estate in equal shares. If it is the wife that dies, the husband and all the children shall inherit the entire estate.
- (ii) Children born outside marriage shall be given their share of the inheritance immediately after the death of their parent. In the case of under-aged children, their uncles shall take charge of the inheritance until such time that the children reach absolute maturity and are capable of taking control of their inheritance themselves.
- (iii) After the death of both parents, the estate shall be divided into equal shares among the children regardless of whether or not they are born in or outside the marriage.

**1.2 The Chief (*Kgosi*)**

- (a) The Chief shall be appointed from the Royal House and shall be the supreme head of the Traditional Authority.
- (b) The Chief shall be the paramount or supreme leader of the Bakgalagari traditional community.

**1.2.1 Functions of the Chief**

- (a) S/he shall be responsible for protecting the customary law of the Traditional Authority which s/he leads.
- (b) S/he shall exercise his/her power and perform his/her duties and functions in accordance with the customary law.
- (c) S/he shall appoint any other members (one or two) of his/her traditional community to act in his/her stead if s/he is for any reason unable to act as Chief or head of the traditional community concerned.
- (d) S/he shall assign one or two Senior Traditional Councillors to assist him/her in administering the affairs of the Chief's Councillors or the Traditional Council.

### **1.2.2 Removal and succession of the Chief or head of the Traditional Authority**

- (a) The removal from office of a Chief or head of the Traditional Authority shall occur in accordance with Bakgalagari customary law. There shall be sufficient reason to warrant the such removal, including –
  - (i) adultery
  - (ii) disablement
  - (iii) retirement
  - (iv) gross misconduct or a criminal record, or
  - (v) death.
- (b) After the Chief's Council and Elders' Council have been consulted with respect of the removal of the Chief, the case shall proceed to the Royal House. The next step, as submitted by the Traditional Council, shall be in the hands of the line Minister.

## **1.3 Traditional Councillors**

### **1.3.1 Appointment of Senior Traditional Councillors**

- (a) Senior Traditional Councillors shall be appointed by the Bakgalagari by means of voting under the supervision of the Traditional Council.
- (b) The Chairperson of the Traditional Council shall appoint the Chief of the Traditional Authority as his close confidante.
- (c) Senior Traditional Councillors shall be responsible for the day-to-day administrative affairs of the Traditional Authority.

### **1.3.2 Appointment of Traditional Councillors**

- (a) Traditional Councillors shall be appointed by the Bakgalagari by means of voting under the supervision of the Traditional Council.
- (b) Traditional Councillors shall assist in the day-to-day administrative affairs of the Traditional Authority.

## **1.4 The Secretary**

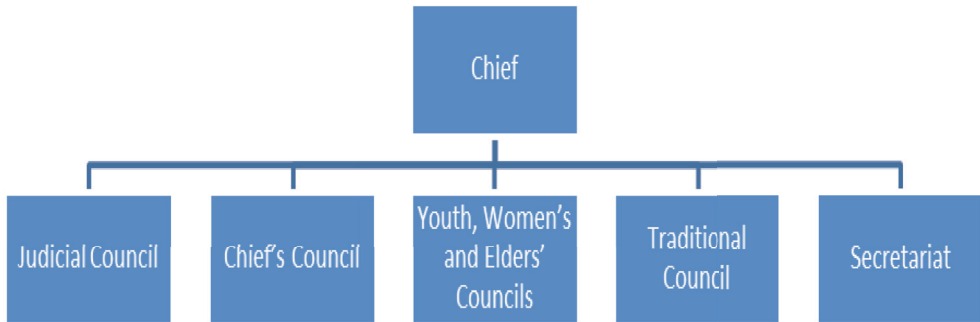
- (a) The Secretary shall serve as Administrator in the office of the Paramount Chief.
- (b) The Secretary shall be a trustworthy and loyal subject of the Traditional Authority.
- (c) S/he shall ensure that confidentiality of his/her office is maintained.

## **1.5 The Chairperson**

- (a) The Chairperson shall preside over meetings under his/her jurisdiction and ensure that minutes of the proceedings are recorded accordingly.

- (b) The Chairperson shall, in consultation with the Chief and Secretary, draw up the agenda of Traditional Authority meetings.
- (c) The Chairperson shall ensure that meetings have a quorum.

## 1.6 Organisational structure of the Traditional Authority



### 1.6.1 The Traditional Council

- (a) The Traditional Council shall consist of the Chief and all members of the Chief's Council, the Judicial Council and the Elders' Council.
- (b) The Traditional Council shall, after extensive consultations, appoint the members of other service bodies such as the Chief's Council, the Judicial Council and the Elders' Council.
- (c) The Traditional Council shall advise the Chief on the execution of his/her functions and powers.
- (d) The Traditional Council shall be the Traditional Authority's highest decision-making body.

### 1.6.2 The Chief's Council

- (a) The Chief's Council shall consist of the Chief, Senior Traditional Councillors, Traditional Councillors, a Chairperson, and a Secretary.
- (b) The Chief's Council shall report to the Chief.
- (c) The Council shall constitute the Chief's advisers.
- (d) The Chief's Council shall lay down the rules for the chieftaincy to operate.

### 1.6.3 Youth, Women's and Elders' Councils

- (a) The Youth Council
  - (i) The Youth Council shall encourage the promotion of cultural practices.



- (ii) The Youth Council shall ensure that the youth learn to sing and dance according to Bakgalagari customs, and promote language interactions.
- (b) The Women's Council
  - (i) Women shall be the most important role players in the community.
  - (ii) Women shall teach young people to promote and preserve their culture and language.
  - (iii) Women shall also ensure that proper behaviour is maintained in their respective households and is transferred from generation to generation.
- (c) The Elders' Council
  - (i) The Elders' Council are senior members of the traditional community.
  - (ii) They shall advise the Traditional Authority and the entire community on cultural affairs.
  - (iii) They shall resolve conflicts that arise amongst Traditional Authority members.
  - (iv) They shall be responsible for the appointment of the Chief in consultation with the royal family.

#### **1.6.4 The Traditional Court (*Kgotla*)**

- (a) The *Kgotla* is the venue for all traditional activities, including –
  - (i) welcoming official visitors
  - (ii) traditional weddings
  - (iii) cultural events
  - (iv) information-sharing, and
  - (v) training of community members.
- (b) Regular meetings and gatherings shall be organised –
  - (i) for the sharing of information
  - (ii) to attend to official visitors
  - (iii) to resolve conflicts and other problems amongst community members
  - (iv) to attend to criminal proceedings within the community, and
  - (v) as and when the need arises.

#### **1.6.5 The Judicial Council**

- (a) The Judicial Council shall be the traditional arm dealing with the Traditional Authority's judicial affairs.

- (b) Its composition shall be as follows:
  - (i) Appellate Court
  - (ii) Traditional Court

#### **1.6.6 The Appellate Court**

- (a) The Appellate Court shall be presided over by the Chief (who is the ‘Judge President’ of the Authority)
- (b) The Appellate Court shall constitute no more than six selected members of the Traditional Council and shall be gender-balanced.
- (c) The Appellate Court shall review all matters referred to it.

#### **1.6.7 The Traditional Court**

- (a) The Traditional Court shall consist of the following:
  - (i) Judges
  - (ii) Assessors
  - (iii) Messengers of the Court, and
  - (iv) The Clerk of the Court, who shall record all proceedings.
- (b) All functions and duties shall be as prescribed and the Community Courts Act.<sup>6</sup>

## **2. The right to make and amend customary laws**

The Traditional Council and the entire Bakgalagari community shall have the right to make, amend and adopt all laws to be executed by the Traditional Authority.

## **3. Commencement and enactment**

### **3.1 Entry into force**

This document shall come into effect after consensus has been reached between the Traditional Council and other parties concerned.

### **3.2 Amendment**

This document shall be amended by the Traditional Council after consensus has been reached. This document shall be amended where necessary, if it is contrary to the Namibian Constitution.

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6 No. 10 of 2003.

### **3.3 Official copy**

The original copy has been printed and signed by the Chief and it shall be stored in a safe place.

[Signed]  
Chief HT Ditshabue  
BAKGALAGARI TRADITIONAL AUTHORITY

## **The Laws of the Bakgalagari Traditional Authority<sup>7</sup>**

### **1. Authority of the Royal House lineage**

- 1.1 In the event that the Royal House Law requires an emergency amendment, no changes shall be permitted with respect to the appointment of members of the Ditshabue Royal House.
- 1.2 The replacement of the Chief shall be from persons related to the Royal House or a family member close to the Royal House.
- 1.3 If the person appointed to take over the duties of the Chief is not of the Royal House, such appointment shall be made in writing.

### **2. Children**

Children shall have the right from birth to a name, the right to acquire nationality and, subject to legislation enacted in the best interest of children, as far as possible, the right to know and be cared for by their parents.

### **3. Competence of the court**

#### **3.1 Persons**

The law shall apply to members of the Bakgalagari traditional community and those who by their contact or consent submit themselves to the customary law of the Bakgalagari traditional community.

#### **3.2 Area**

The law shall apply to members of the Bakgalagari traditional community within the proclaimed Bakgalagari Traditional Authority areas, namely the Aminuis Constituency, Omaheke Region, and to persons who are not members of the Bakgalagari traditional community but who by their contact or consent submit themselves to the customary law of the traditional community within the said Constituency/Traditional Authority area.

### **4. Criminal liability**

#### **4.1 Age**

If a child who is under age has committed a crime, s/he shall be held liable and

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<sup>7</sup> Adopted on 25 July 2010 at a Traditional Council Meeting held at Corridor 13, Aminuis Constituency, Omaheke Region. These laws were submitted in English only.

be prosecuted through his/her parents or any other closely related member of his/her family.

## **4.2 Mental health**

Apart from a charge of murder or rape, a mentally disabled person who has committed a crime shall be held liable through his/her parents.

## **4.3 Intoxication and duress**

An intoxicated person or a person under duress shall be given a chance to recover before his/her case is heard in the Traditional Court (*Kgotla*).

## **4.4 Double jeopardy**

- 4.4.1 If a crime has already been addressed by a Magistrate's Court, and the latter Court has delivered a conviction, a Traditional Court shall not be permitted to revisit the case.
- 4.4.2 Similarly, if a Magistrate's Court has acquitted someone accused of a crime, a Traditional Court shall not be permitted to retry the person concerned.

# **5. Criminal offences**

## **5.1 Murder**

Traditional Courts shall refer cases of murder to the police and then to a Magistrate's Court.

## **5.2 Rape and other cases of sexual violence**

The Traditional Court shall refer cases of rape or other sexual violence to a Magistrate's Court for investigation.

## **5.3 Theft/robbery**

Depending on the method of theft/robbery, the Traditional Court shall investigate the case or refer it to a Magistrate court.

## **5.4 Harassment and intimidation**

- 5.4.1 The Traditional Court shall investigate cases of harassment and intimidation.
- 5.4.2 Victims shall be compensated through the Traditional Court.

### **5.5 A person's body**

No person shall paralyse, beat or abuse another person.

### **5.6 Bribery**

5.6.1 The Traditional Court shall investigate cases of bribery.

5.6.2 If the accused is found guilty, the Traditional Court shall punish them depending on the magnitude of the case.

### **5.7 Smuggling**

5.7.1 The Traditional Court shall investigate cases of smuggling.

5.7.2 Difficult cases shall be referred to a Magistrate's Court.

### **5.8 Weapons**

5.8.1 The Traditional Court shall refer cases of unlawful ownership or use of weapons to a Magistrate's Court.

5.8.2 Traditional courts shall invite all courts in their areas to provide them with a copy of the weapon permits they issue in order to distinguish between lawful and unlawful weapons owners in their areas.

### **5.9 Unlawful camping**

In accordance with the provisions of the Communal Land Reform Act, 2002 (No. 5 of 2002), the Traditional Authority shall immediately stop unlawful camping in communal land.

## **6. Inheritance**

6.1 If the male head of the household dies, his wife and all their children, whether born within or outside marriage, shall inherit his estate.

6.2 If the wife dies, her husband and all their children shall inherit her estate.

6.3 Children born outside marriage shall be given their share of the inheritance immediately after the death either one of their parents.

6.4 In case of underage children their uncles shall take charge of the inheritance until such time that the children reach absolute maturity and are capable of taking over whatever it is that their parents left for them.

## **7. Marriage**

According to Bakgalagari custom, certain procedures shall be followed, e.g. engagement (*patlo*) shall precede marriage (*bogadi*).

## **7.1 Certificates**

For marriages in the Bakgalagari community, the Chief shall issue a marriage certificate immediately after the marriage ceremony.

## **7.2 Bride price**

The bride price shall be six head of cattle.

## **7.3 Number of wives**

According to Bakgalagari custom concerning marriage, a man shall be permitted to take more than one wife if his first wife approves it.

## **7.4 Protection of widows**

7.4.1 The Traditional Authority shall be responsible for the protection of a widow's inheritance and land.

7.4.2 The family of her deceased husband shall take care of her.

## **7.5 Welfare of the elderly**

The Traditional Authority shall ensure that senior adults in the community are well looked after by their family or other relatives in the community and, if not, the said Traditional Authority shall take care of such senior members.

## **7.6 Adultery**

7.6.1 A man who impregnates another man's wife shall pay four head of cattle or N\$4,000 (four thousand Namibia Dollars) to the woman's husband.

7.6.2 If a man sleeps with another man's wife and does not impregnate her, he shall pay two head of cattle or N\$2,000 (two thousand Namibia Dollars) to the woman's husband.

7.6.3 If the woman in the adulterous relationship falls pregnant, the man who impregnated her shall pay a fine of N\$1,000 (one thousand Namibia Dollars) or one head of cattle in addition to the 4 (four) head of cattle mentioned in 7.6(a).

7.6.4 If the woman in the adulterous relationship does not fall pregnant, the man who has slept with her shall pay a fine of N\$2,500 (two-and-a-half thousand Namibia Dollars) in addition to the 2 (two) head of cattle mentioned in 7.6(b).

## **7.7 Divorce**

7.7.1 Divorce cases shall be brought before the Traditional Court (*Kgotla*) for thorough investigation.

- 7.7.2 The Traditional Authority shall try to reconcile the parties involved, but, if reconciliation is not possible, the case may proceed to the Traditional Court.
- 7.7.3 The Traditional Authority shall determine whether the marriage is traditionally recognised or whether it is perhaps also lawfully recognised by the Magistrate's Court.
- 7.7.4 Where a couple were married by a Magistrate, the Traditional Court shall request the individual who wants to initiate the divorce to do so at the Magistrate's Court before the Traditional Court investigates the matter.
- 7.7.5 The court shall first look at the things they brought together during the period of marriage.
- 7.7.6 The one who is being divorced shall take three quarters of the items the couple bought together.
- 7.7.7 The one who initiates the divorce shall take one quarter of the items the couple bought together.

## **8. Children**

### **8.1 Pregnancy**

- 8.1.1 According to Bakgalagari tradition, it is unacceptable for a child to fall pregnant. The Traditional Authority therefore encourages parents to talk their children about the importance of family planning.

#### **8.1.2 Under-age pregnancy**

- (a) Impregnation by an adult  
The fine for an adult impregnating a girl under the age of 18 shall be 6 (six) head of cattle.
- (b) Impregnation by an age-mate  
The boy shall pay a fine of 2 (two) head of cattle and the girl shall pay N\$2,000 (two thousand Namibia Dollars), which fines go to the Traditional Court.

### **8.2 Responsibility for/custody of children and their upbringing**

The Traditional Authority shall be the ultimate custodian of children and shall have a duty to act in the best interest of the child in matters involving the maintenance, guardianship and custody of children.

### **8.3 Responsibility for/custody of orphans**

- 8.3.1 The Traditional Authority shall ensure that help from the government or non-governmental organisations benefits the orphan and not other children or adults.



- 8.3.2 The Traditional Authority shall also register all orphans with the Ministry of Gender Equality and Child Welfare for maintenance grounds for the purpose of such assistance.

## **8.4 Responsibility for children born outside marriage**

- 8.4.1 The Traditional Authority shall ensure equality among children.  
8.4.2 Therefore, children born outside marriage shall be treated equally and shall have the right to inherit.

## **9. The aged**

The Traditional Authority shall serve as the liaison between the aged and the government or non-governmental organisations' services to ensure the aged receive the necessary assistance.

## **10. Health**

The Traditional Authority shall encourage healthy practices among the community.

### **10.1 HIV and AIDS**

- 10.1.1 The Traditional Authority shall encourage the person living with HIV to take their treatment on time and to eat healthy food at all times.  
10.1.2 The Traditional Authority shall be empowered to request assistance from the government or non-governmental organisations to cater for the nutritional needs of such persons.

### **10.2 Alcohol and narcotics**

According to Bakgalagari custom, alcohol and other drugs were used in appropriate moderation by our ancestors. Today, the youth are very involved in using such substances. The Traditional Authority shall not tolerate the use of such substances because they hamper the individual progress of members of the community.

## **11. Gender**

The Traditional Authority shall support and incorporate affirmative action policies among the community, and shall ensure that all community members are equal regardless of their gender, colour or creed.

### **11.1 Equality between men and women**

The Traditional Authority shall regard all men and women as equal before the customary law.

### **11.2 Protection of women from being oppressed**

According to Bakgalagari custom, women shall be entitled to freedom of speech and shall share equally in the decision-making processes in their households and in other traditional matters.

### **11.3 Special protection areas**

The Traditional Authority shall ensure that women are protected against any form of discrimination, especially as regards practices relating to inheritance and serving in public office.

## **12. The land**

Communal land in Namibia is administered by the Traditional Authority in accordance with the Communal Land Reform Act, 2002 (No. 5 of 2002).

### **12.1 Ownership of the right to use communal land**

12.1.1 A person shall apply for the right to use communal land.

12.1.2 If his/her application is successful, such right shall be registered.

### **12.2 Allocation**

The allocation of land shall be done according to the rules already in place between the Traditional Authority and the applicable Communal Land Boards.

### **12.3 Illegal occupation of communal land**

The Communal Land Board shall be entitled to institute legal proceedings for the eviction of any person who occupies any part of the communal land under its jurisdiction.

### **12.4 Grazing rights**

12.4.1 The commonage of the traditional community shall be available for use by lawful residents of that community for the grazing of their stock.

12.4.2 These rights shall belong to any resident of the community and shall be awarded without restrictions.

## **13. Livestock**

The Traditional Authority shall ensure that the amount of livestock permitted to graze on the commonage is limited in order to prevent overgrazing.

### **13.1 Loss of livestock**

If livestock gets lost, the community shall keep them safe and notify the Traditional Authority so that measures can be taken to ensure that the animals are returned to their rightful owner, provided that s/he produces the correct documentation to prove such ownership.

### **13.2 Transportation of livestock**

The transportation of animals shall be done in cooperation with farmers' unions and the government's Anti-theft Committee and also attend agricultural courses whenever possible.

## **14. Environment**

The Traditional Authority and the Bakgalagari community shall look after the environment in a viable and sustainable way in order to ensure the natural resources are protected as far as possible for all the citizens of Namibia.

### **14.1 Mining**

- 14.1.1 The Traditional Authority shall encourage mining in the area because mining can bring development and job opportunities.
- 14.1.2 If any member discovers previously unknown natural resources, s/he shall inform the Traditional Authority, which shall in turn inform the government accordingly.

### **14.2 Conservancies**

The Traditional Authority shall encourage conservancies to be established in the area. Conservancies are viable ventures that have the potential to attract tourists and thereby broaden the prospect of job opportunities.

### **14.3 Deforestation**

- 14.3.1 The Traditional Authority and the Bakgalagari community are obliged to protect the environment against veldfires, because veldfires can cause poverty. The Traditional Authority shall encourage the community to fight the risk of veldfires and to attend courses on how to prevent veldfires in the area.

- 14.3.2 The Traditional Authority and the Bakgalagari community shall ensure that restrictions are placed on the collection of firewood.
- 14.3.3 If a community resident wishes to transport firewood from one area to another, s/he shall request permission from the Traditional Authority to do so.
- 14.3.4 If a community resident wishes to collect wood for sale, s/he shall request permission from the Traditional Authority to do so, and shall apply for the relevant permit from the Ministry of Environment and Tourism.

#### **14.4 Water issues**

The Traditional Authority and the Bakgalagari community shall use water wisely because water is regarded as a scarce resource and is the very essence of life.

#### **14.5 Hunting and fishing rights**

- 14.5.1 If there is a conservancy or fishing pool in its area, the Traditional Authority shall permit the community to hunt or fish there once in a while.
- 14.5.2 Where hunters come to hunt in the area, the fee they are charged shall be paid into the community's trust fund.

#### **14.6 Tourism**

##### **14.6.1 Promotion**

The Traditional Authority and the Bakgalagari community shall ensure that there are conservancies, campsites and lodges in the area to attract tourists and promote tourism.

##### **14.6.2 Protection**

Tourists shall report to the Traditional Authority and the community so that they can be provided with the necessary protection in the area.

### **15. Intellectual property rights**

#### **15.1 Ownership of traditional knowledge**

The Traditional Authority shall regard the community's traditional knowledge highly because such knowledge assists with innovations.

#### **15.2 Sale of traditional crafts, etc.**

The Traditional Authority shall encourage the community to take their crafts seriously because they can benefit the community and can become profitable for its members. Crafts can attract tourist to areas where they are marketed well.

### **15.3 Protection of traditional knowledge and symbols**

In order to protect traditional knowledge and symbols, the Traditional Authority shall motivate the youth to practise their culture and use their language.

## **16. Burial rites**

- 16.1 Gravestones are symbols of remembrance that honour our beloved ancestors' historical background. The Traditional Authority shall, therefore, encourage the community to erect and protect gravestones in the graveyard.
- 16.2 According to Bakgalagari tradition, a gravestone shall be unveiled immediately after the burial of the deceased, and the particulars of the deceased shall be inscribed on the gravestone.

## **17. Holy covenant/traditional secrets**

The traditional secrets of the Bakgalagari shall be protected in order to preserve the culture, customs and values of the Bakgalagari and to protect and serve the Traditional Authority's administration.

## **18. Fines and levies**

- 18.1 Any person who steals any domestic animal shall be guilty of an offence and shall be subject to a fine.
- 18.2 For the purposes of compensating the aggrieved owner, the following fines shall be paid:
  - (a) For the theft of one head of cattle worth N\$1,000 (one thousand Namibia Dollars) the court fine shall be N\$500 (five hundred Namibia Dollars)
  - (b) For the theft of one goat worth N\$250 (two hundred and fifty Namibia Dollars) the court fine shall be N\$125 (one hundred and twenty-five Namibia Dollars)
  - (c) For the theft of one sheep worth N\$250 (two hundred and fifty Namibia Dollars) the court fine shall be N\$125 (one hundred and twenty-five Namibia Dollars)
  - (d) For the theft of one horse worth N\$500 (five hundred Namibia Dollars) the court fine shall be N\$250 (two hundred and fifty Namibia Dollars)
  - (e) For the theft of one donkey worth N\$250 (two hundred and fifty Namibia Dollars) the court fine shall be N\$125 (one hundred and twenty-five Namibia Dollars), and
  - (f) For the theft of one chicken worth N\$30 (thirty Namibia Dollars) the court fine shall be N\$15 (fifteen Namibia Dollars).
- 18.3 If all livestock is stolen before slaughter, branding or earmarking, the following costs shall be payable:

- (a) Tracing costs
  - (b) Transport costs, and
  - (c) Court administration fees.
- 18.4 With respect to theft, the circumstances of each case shall be taken into account in determining the costs involved.
- 18.5 Any person who steals any item, e.g. any device, equipment or piece of furniture, shall be guilty of an offence.
- 18.6 The Traditional Court shall fine the guilty party 25% (twenty-five per cent) of the value of the stolen item.
- 18.7 Any person who knowingly and wilfully receives stolen property shall be guilty of an offence and subject to a fine amounting to half the value of such property.
- 18.8 If a group of people commit a crime, the investigation and the statement provided shall determine the involvement of each culprit and shall accordingly categorise them as follows:
  - (a) Accused No. 1
  - (b) Accused No. 2
  - (c) Etc.
- 18.9 If found guilty, the main defendant shall be made to account for the crime in full.
- 18.10 The co-accused, if also found guilty, shall pay not more than half the total value of the items.
- 18.11 In a matter arising from a prior agreement between two parties about an item and the subsequent refusal by one of the parties to return the item to the other party, the Traditional Court shall compensate the complainant accordingly and shall also be paid 25% (twenty-five per cent) of the value of the item.
- 18.12 Waste of time in a partnership
  - 18.12.1 The Traditional Court shall prosecute any person who has a charge laid against him/her for having delayed and wasted the time of his/her partner in a relationship.
  - 18.12.2 In this respect, the Traditional Court shall accept twelve months as the period in question in respect of the parties having lived together and known each other.
  - 18.12.3 Any extension of the twelve-month prescribed period shall be determined by the Traditional Court, which may also have to decide on the distribution of jointly acquired goods.
- 18.13 Any man or woman caught in the act of committing adultery shall be guilty of an offence and be subject to a fine not exceeding 6 (six) head of cattle or N\$6,000 (six thousand Namibia Dollars).
- 18.14 Any person who gives out information regarded as privileged in some way and, in so doing, compromises another party shall be subject to fine not exceeding N\$2,000 (two thousand Namibia Dollars).
- 18.15 Any person who intends to file a complaint with respect to the theft of an animal or an alleged insult shall register their complaint with the Traditional Court.
- 18.16 On registering the theft of cattle, goats or sheep, a fee of N\$100 (one hundred Namibia Dollars) shall be payable to the Traditional Court per head of livestock.

- 18.17 On registering a complaint against another party for an alleged insult, the complainant shall pay a fee of N\$70 (seventy Namibia Dollars only).

## **19. Customary law marriage**

- 19.1 By engaging even the initial steps towards marriage, it shall be assumed that a person has promised to marry.
- 19.2 For this reason, due consideration shall be given to factors such as children born in the relationship and the duration of the relationship in the event of it being terminated.
- 19.3 In accordance with custom, the divorced parties shall share their possessions equally.
- 19.4 A fine of N\$1,000 (one thousand Namibia Dollars) or 1 (one) head of cattle shall be payable if either party breaches a promise made to the other.

## **20. Draught animals**

Any person who uses draught animals without their owner's permission shall be guilty of an offence and be subject to a fine not exceeding N\$500 (five hundred Namibia Dollars).

## **21. Commencement and enactment**

### **21.1 Entry into force**

These customary laws shall enter into force after consensus has been reached by the Traditional Council and other parties.

### **21.2 Amendment**

- 21.2.1 These customary laws shall be amended if they contravene the Namibian Constitution.
- 21.2.2 Amendments shall be done after consensus has been reached by the Traditional Council and other parties.

### **21.3 Official version**

The original copy has been printed and signed by the Chief and shall be stored in a safe place.

[Signed]  
Chief HT Ditshabue  
BAKGALAGARI TRADITIONAL AUTHORITY

## CERTIFICATE OF CONSENT TO PUBLISH

UNIVERSITY OF NAMIBIA

FACULTY OF LAW

HUMAN RIGHTS AND DOCUMENTATION CENTRE

### RE: CONSENT TO PUBLICATION

I, the undersigned, Chief of the BAKGALAGARI Traditional Authority, hereby give consent to the Human Rights and Documentation Centre, to publish the following documents of the BAKGALAGARI Traditional Authority:

1. The Customary Laws
2. The Community Profile
3. Picture of the Chief
4. Logo of the Traditional Authority

I acknowledge that the Human Rights and Documentation Centre will publish the laws in our indigenous language (SEKWAANA), as well as the English language. I am familiar with the contents of the laws that will be published and further acknowledge that they were prepared by my traditional authority.

Signed on this 01 day of 08 2012

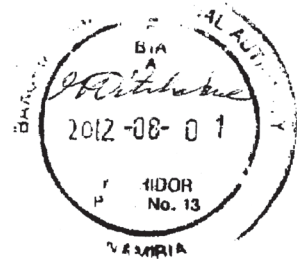
At KORISON 13

AMINUIS

Chief A. Dithaane

[Signature]

For HRDC: Mr. A. Gairiseb

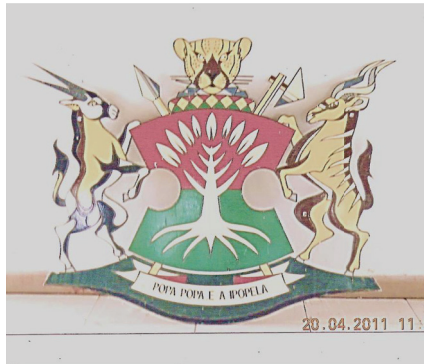




**THE BATSWANA TRADITIONAL AUTHORITY**  
**KGOTLA YABATSWANA**



Former supreme leader of the Batswana ba Namibia,  
*Kgosi*<sup>1</sup> Constans Letang Kgosiemang<sup>2</sup>  
Date of designation: 28 April 1979  
[Passed away on 15 August 2012]



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1 Traditional title in terms of section 11, Traditional Authorities Act, 2000 (No. 25 of 2000).  
2 At the time of going to print, a new supreme leader had not been gazetted.

## PROFILE<sup>3</sup>

The Republic of Namibia became independent on 21 March 1990, after a protracted and heroic struggle by her sons and daughters. The founding fathers of the Constitution of the new state of Namibia made provision for the recognition of, and the role to be played by, Traditional Authorities. This important legacy that we, as Africans, inherited from our ancestors of old is the guiding light to future generations. As elsewhere in the world, children want to know where they come from, in order to determine where they want to go.

The Batswana, like all citizens of our country, came from various parts of Africa, like all Bantu peoples of southern Africa. It is generally known that the Khoisan were the first inhabitants of the subcontinent. The Bantu came in much later to settle and make their home here.

The Batswana also came in, and established themselves on their small piece of land in the eastern areas of our country. In those days of ‘might is right’, only the fittest survived the wars that cut through family lines and divided the people. Those who came from the south<sup>4</sup> had the advantage of guns, brought in by traders. By the time they settled in Namibia, the Batswana had already survived many wars as well as the new vision of Christianity. Missionaries like Dr Robert Moffat and Dr David Livingstone had already established the faith in the Taung–Mahikeng–Kuruman area. The Batswana people of the northern parts of what was then the Cape Colony had also learned to fight with guns during the wars waged by Andries Waterboer, his son Nicholas, and many Khoisan leaders of that era.

It is the latter era that handed down to us the culture that we live up to today. Our roots are still vivid in the minds of our elders, who had history passed on to them by word of mouth for the past few generations. We are now proud to pass it on to our own children in Namibia today.

God bless Namibia.

### **Constans Letang Kgosiemang**

TRADITIONAL LEADER AND *KGOSI*, 1979–2012

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3 This profile was provided by the Batswana Traditional Authority.

4 From what are today the Northern and Western Provinces in South Africa.

## A brief history

There is very little evidence of the origin of the Batswana, but it is generally accepted that they broke away from the main body of Bantu peoples in the Great Lakes area and moved southwards. Experts assume that they entered southern Africa in three series of migrations. The first is represented today by the people known as the Bakgalagadi, who mingled with the pre-existing Sarwa (San) population. The ancestors of the modern Barolong and Batlhaping, who settled along the Molopo River, then followed. The third migration was the greatest, and brought with it the ancestors of all the other Basotho groups. They settled in what became known as the Western Transvaal of South Africa, and quickly broke up into several groups: the Bahurutshe, Bakwena and Bakgatla.

One of the features in the history of the Batswana was the constant secessions from the ruling tribe by one group or another to move to another locality whenever disagreements flared up. There they would settle and start an independent tribe under the chieftainship of their new leader. The new tribe would then become known by the name of their Chief. The Barolong broke up into the Batlhaping, Bamaidi, Bakaa, and various other smaller clans, still usually called Barolong, but identified by the names of their founders, namely the Bagarratlou, Batshidi, Bagaseleka, Bagarrapulana, Bagamodibowa, Bagamosadi, etc. The Bahurutshe, who are said to have been the leaders of the final migration from the north, broke up into the modern Bahurutshe tribes: Bagamanyana, Bagamokhubidu, Bagamoilwa, Bagagopane, Batlharo, Bakhurutshe, etc. The Bakgatla, an early offshoot of the Bahurutshe, broke up into the modern Bakgatla tribes: Bagamosetlha, Bagakgafela, Bagammaanaana, Bagammakau, Bagamotsha, Batlokwa and Bapedi (today classified as Central Basotho). Bakwena, also an offshoot of the Bahurutshe, broke up into Bafokeng, Bagamogopa, Bagamodimosana, Baphalane, etc. A section of the Bagamogopa later seceded and moved westwards around 1720.

The Bagamogopa, today known as Bakwena Bagasechele, were the first Batswana tribe to settle in what is today called Botswana. Later, the Bagwaketse and the Bangwato broke away from them. The Batawana broke away from the Bangwato.

The Batswana ba Namibia are direct descendants of the first Batswana who made contact with Christian missionaries around 1816 in the northern Cape Colony. Traders, hunters and explorers visited the various tribes in the region and, not long afterwards, mission stations were established among the Barolong in 1822, the Bahurutshe in 1836, the Bagammaanaana-kgatla in 1843, and the Bakwena in 1846. Dr David Livingstone's discovery of Lake Ngami in 1849 opened the way to the north.

After settling in the Transvaal, the Boer Voortrekkers of the Great Trek forced the tribes living on their newly acquired farms to do manual labour for them. Many tribal communities were disgruntled and migrated elsewhere. Looking for greener pastures, Chief Morwe II emigrated to what was then German South West Africa in 1885 – a clear indication that the Batlharo had had enough of the white settlers who occupied their traditional lands. But Chief Morwe II also knew the country to the west well, due

to the movements of traders in those years. It is also known that Chief Mothibi of the Batlhaping in the Northern Cape had often sent his people on trade missions to southern Angola in the 1830s. It can be assumed that the Batlharo had also been in Namibia at an earlier date.

During the movement of various tribes westwards and northwards, smaller ones breaking up eventually landed in German South West Africa and the then Bechuanaland Protectorate, respectively. Among those who landed in the Protectorate were the Bagammaanaana-kgatla, Maletse, Batlokwa, Bagakgafela-kgatla and two groups of Bahurutshe. By the end of the 19th Century, the Batswana were firmly established in the northern Cape Colony, British Bechuanaland and the Transvaal.

Those who had crossed into German South West Africa settled in the area near the present-day Mokala in the Aminuis and Corridor area, and further up to the Epukiro area. Others settled in Aroab, Naosanabis, Dikgatlhong, Kaukurus, Skaaprivier, Nossob, Okahandja, Waterberg, Dikgokonyeng (Vasdraai Resettlement), Gobabis, and up north in today's Kavango Region. These people later came under the influence of the German Catholic missionaries who began to work among them. Today, over 80% of the Batswana are Catholic. Among them are the Bahurutshe, Bakgatla, Barolong, Batawana and Batlharo. Due to Western influence and colonial laws, they have become one large family.

## **The Batswana ruling lineages of southern Africa – A brief review of events**

According to oral history, all Batswana ruling lineages can be traced to three founding ancestors: Morolong, Masilo, and Mokgatla. According to history, Morolong lived in the western part of the Witwatersrand in South Africa, known today as Gauteng, during the 13th and 14th Centuries. Mokgatla appears to have lived in the north-eastern Witwatersrand around the 15th and 16th Centuries. All three rose to power at some stage of their lives. Historians suggest that Morolong's family were ironsmiths (*ba-rula-tshipi*). Masilo's family lived between the grasslands and the bushveld. The abundance of grazing influenced them to become stock farmers. Mokgatla's family lived in the assumed trade route areas extending across the Kgalagadi Desert into today's Free State Province.

The early Barolong moved westwards to the Kgalagadi (Kalahari) by about 1500. The Masilo lineage split into two in the late 15th and early 16th Centuries due to a dispute about the chieftainship. The rightful chief was Mohurutshe, granddaughter of Masilo. The elders chose to follow her brother Kwena as chief. Mohurutshe fled to the Barolong. After Mohurutshe's death, her two sons, Motebejane and Motebele, returned to the bushveld. They later split up and Motebejane built his capital, Tshwenyane, on a mountain next to where Zeerust – a town in the North West Province of South Africa – now stands. Motebele fled to the south-east and later came back with Zulu mercenary warriors who laid siege to Tshwenyane. Apparently, Motebele's followers were later

called Matebele (“Motebele’s people”). Motebele fled west and then north, and later became the Chief of the Bapedi ba Gananwa. In the middle of the 1600s, the Bahurutshe split into two when the rightful chief was defeated in battle, and then called themselves the Bakwana. A new lineage was again added, which took the name of their ancestor Ngwaketse.

The Batlokwa and Bakgatla lineages broke away from the lineage of Mokgatla in the 1500s. They travelled west first and later south, finally settling in the area of Tlokwe (later called Potchefstroom by Boer settlers), where they took the name Batlokwa. From Tlokwe, various chiefdoms emerged and spread to settle north, south, east and west of Tlokwe itself. In the mid-1700s, the main body of Batlokwa migrated and settled in the Pilanesberg Hills.

The original Bakgatla of the north-eastern Witwatersrand split into two new lineages under Mogale and Tabane in the 1600s. Mogale went west, while Tabane remained in the original homeland. The latter’s younger brother migrated east and founded the Bapedi kingdom of the Leolo Mountains. Mogale’s lineage split in two, and his son Kgafela fled further west and founded the Bagakgafela-kgatla of Pilanesberg.

Meanwhile, the Barolong spread westward until they made contact with the Khoisan and Kora. They established trade with iron goods, and met Bantu herders from northern Namibia during the 1600s. The most powerful and famous rulers of the Barolong were Thibela and his son Tau, who reigned in the 1600s and 1700s, respectively. They may justly be called *kings* and their state a *kingdom* because they had established a permanent city state and lorded it over all the tribes in the area. Their capital, founded by Thibela, was later named Taung. Its subjects included the Bakora, Bakgalagadi and Bahurutshe tribes.

The Barolong established the big town known as Dithakong, and apparently extended their rule into Namibia.

According to Ovaherero oral tradition, the Barolong, led by a Chief called Kativine, defeated them at Okahandja in the 1600s. This Chief may have been Thibela or one of his generals. Trade between the Ovaherero and the Barolong comprised mainly cattle and iron goods. The Batswana loved Namibia’s long-horned cattle.

After Tau’s death, the kingdom retreated to Mahikeng. Tau’s son, Ratlou, succeeded his father. He was followed by Tau’s other sons, namely Seleka, Tshidi and Rapulana. Tau’s last surviving son, Makgetla, died in battle with the Bahurutshe in 1805. Upon his death, the breaking up of the Barolong Kingdom was complete.

## **Location and groupings of the Batswana of southern Africa**

It is generally accepted that there are two Batswana groups, namely the Eastern and the Western. These two groups occupy a vast area stretching from around the town of

Gobabis in eastern Namibia to Pretoria in South Africa, and then from northern Botswana around the area of the Okavango Swamps to Kimberley in South Africa. The Batswana have interacted with many other Bantu tribes over a long period.

During the wars of Imfecane, when Amazulu warriors roamed the plains of what later became the Free State and Transvaal (now the Free State and Gauteng Provinces), many young Batswana men and women were taken captive as warriors, wives and slaves by the Amazulu conquerors. The great conquistadors Mzilikazi and Sebitwane wrought havoc among the Batswana in the Kimberley–Kuruman–Mahikeng triangle during the 19th Century. It was during these difficult times that some of the Batswana migrated to Namibia, where they settled among the Nama and Ovaherero peoples.

The main Western Batswana groupings in southern Africa are as follows:<sup>5</sup>

### **The Batlhaping**

|                 |                                |
|-----------------|--------------------------------|
| Baphuduhutswana | C. Taung, Vryburg, Barkly West |
| Bamaidi         | C. Taung                       |

### **The Barolong**

|                      |                                      |
|----------------------|--------------------------------------|
| Barolong Bagarratlou | T. Lichtenburg, C. Mahikeng, Vryburg |
| Batshidi (Bakhidi)   | C. Mahikeng, B. Lobatsi              |
| Bagaseleka           | F. Thaba Nchu, B. Francistown        |
| Bagarrapulana        | T. Lichtenburg, C. Mahikeng          |
| Batloung             | T. Lichtenburg                       |
| Bakaa                | B. Mochudi, Ngwato, Kweneng          |
| Bakubung             | T. Ventersdorp                       |

### **The Bahurutshe**

|               |                                   |
|---------------|-----------------------------------|
| Bagamanyana   | B. Ngwaketsi, T. Marico (Madikwe) |
| Bagamokhubidu | B. Kweneng; T. Marico             |
| Bagagopane    | T. Marico                         |
| Bagamoilwa    | T. Marico                         |
| Bakhurutshe   | B. Francistown                    |
| Batlharo      | C. Mahikeng, Vryburg, Kuruman     |
| Banogeng      | T. Lichtenburg                    |
| Bakwena       | B. Kweneng                        |
| Bangwaketsi   | B. Ngwaketsi                      |
| Bangwato      | B. Ngwato                         |
| Batawana      | B. Ngamiland                      |

5 B = Botswana; C = former Cape, South Africa; T = former Transvaal, South Africa; F = former Free State, South Africa

The Eastern Batswana comprise the following:

**The Bakwena**

|            |                                      |
|------------|--------------------------------------|
| Bafokeng   | T. Rustenburg, Ventersdorp           |
| Mogopa     | T. Pretoria, Rustenburg, Ventersdorp |
| Mmamela    | T. Rustenburg                        |
| Modimosana | T. Rustenburg                        |
| Mmatau     | T. Rustenburg                        |
| Matlaku    | T. Rustenburg                        |
| Phalane    | T. Rustenburg, Marico                |
| Tlhalerwa  | T. Rustenburg                        |
| Phiring    | T. Rustenburg                        |
| Taung      | T. Rustenburg                        |

**The Bakgatla**

|           |                            |
|-----------|----------------------------|
| Mosetlha  | T. Pretoria                |
| Kgafela   | B. Mochudi; T. Rustenburg  |
| Mmanaana  | B. Kweneng, Ngwaketsi      |
| Mmakau    | T. Pretoria                |
| Motšha    | T. Pretoria                |
| Seabe     | T. Pretoria                |
| Bididi    | T. Waterberg               |
| Thethe    | B. Gaborone, T. Rustenburg |
| Motsatsie | T. Rustenburg              |
| Malete    | B. Gaborone; T. Marico     |
| Batlhako  | T. Rustenburg              |
| Seleka    | T. Potgietersrust          |
| Bapo      | T. Rustenburg              |
| Bahwaduba | T. Pretoria                |

The Batswana ba Namibia are originally from the following groupings:

|             |                                                      |
|-------------|------------------------------------------------------|
| Barolong    | C. Batshidi from the Taung–Mahikeng–Kuruman triangle |
| Bangwaketse | C. Kuruman                                           |
| Batlaharo   | C. Mahikeng, Vryburg and Kuruman area                |
| Bahurutshe  | T. Marico                                            |
| Bakgatla    | B. Mochudi                                           |
| Batawana    | B. Ngamiland                                         |
| Bakgalagadi | B. Desert dwellers of the Kgalagadi Desert           |
| Batlhaping  | C. Taung                                             |
| Bakwena     | T. Rustenburg                                        |

It is generally accepted that the Batswana who made Namibia their home do not necessarily originate from here. Over a long period, the people known as Batswana have



inhabited the area east of the Kgalagadi (Kalahari) Desert from northern Botswana south to the northern Cape, and east to around Pretoria, and then southward to the northern Free State.

Legend has it that some of the Batswana ba Namibia groupings originally came from the northern Cape Province areas around Kuruman (originally known as *Kudumane*), Vryburg, Taung and Mahikeng.

Apparently, traders from what was then the northern Cape Colony travelled with helpers and Batswana interpreters who later decided to settle in the part of Namibia where they are found today. Another grouping came from Botswana, but it was much smaller than the group from the south.

### **Central and Northern Botswana**

The Bakaa seized the Shoshong Hills from their rulers, the Bahurutshe, in 1760. A junior clan of the Kgabo-Kwena, called the Bangwato, broke away in 1770 and fled northwards. The two sons of Bangwato Chief Mathiba divided his people into two distinct groups. Tawana, Mathiba's favourite son, was defeated by Khama I in the 1790s. The Bangwato regained their strength during Kgari's reign.

### **Western Batswana wars, 1805–1820**

The previously powerful Bahurutshe Kingdom at Kurechane was weakened by succession disputes. The Bagakgafela-kgatla were also weakened and split up around this time. The Bangwaketse Kingdom to the west under Makaba II, and the Batlhaping Kingdom to the south under Molehabangwe, had both grown very strong. They were traders by occupation, but they often raided villages and took many cattle, at times as far north-west as the Ovaherero villages in Namibia. When European wagon traders arrived in the area, they were amazed to find that the Batlhaping capital of Dithakong was even bigger than Cape Town, which at that time had a population of about 15,000. In 1808, the Batlhaping, Bangwaketse and Bakwana formed an alliance and attacked Makaba's capital at Kanye. The last powerful Bahurutshe King, Sebogodi, was killed in about 1815.

The last King of the Batlhaping, namely Mothibi, died in 1845. His Kingdom broke up, with the biggest part being ruled by his brother, Mahura (1845–1869) up to Kudumane (Kuruman). Mothibi's eldest son, Gasebone, ruled to the south (1845–1858). A younger son, Jantjie (1845–1881), also ruled the south. The Bagamaidi-tlhaping and the Batlharo were ruled by Toto, who was born in 1808 and died almost a hundred years later, in 1901. The Batshidi-rolong were ruled by Montshiwa from 1849 to 1896, while the Barolong Bagarratlou lived under the rulership of Gontse from 1840 to 1853. Wars with the Boers eventually spread these latter groups westwards. The Bangwaketse, after being scattered by the Ndebele under Mzilikazi, later came together under two Chiefs, Gaseitsewe and Senthufe, in 1853, and settled at the Kingdom of Kanye from 1857 to 1889. The Barolong

of Montshiwa fled to Gaseitsewe in 1852 and remained in the Bangwaketse Kingdom at Mosaneng until 1870.

King Sechele of the Bakwena also built up his Kingdom, and attracted missionaries. He became the most important Christian convert among the Batswana during the years 1840 to 1870. He was the first to preach as a black missionary among the Matebele before Robert Moffat. Sechele ruled the Bakwena at Molepolole from 1829 to 1892.

Khama, who was born in 1835 and lived to 1923, was heir to Sekgoma of the Bangwato. He was converted to Christianity and ruled from 1875 to 1923. He is remembered for his Christian principles and for having banned beer drinking among his people. He died in 1923.

## Origins of the Batswana ba Namibia

The Batswana (singular = Motswana) in general make up one of the three major divisions into which linguists and ethnologists classify the Basotho group of Bantu-speaking people of central southern Africa. The other two are the 'Southern' Sotho (of Lesotho) and the 'Northern' Sotho (Sepedi) of today's Limpopo Province in South Africa. Early European writers record the Batswana name in various forms: *Beetjuana*; *Bichwana*; *Booshuana*; *Boochuana*; and *Buchuana*. *Bechwana* is occasionally also used. With the writing of an orthography for Setswana, standardisation brought with it the new plural form Batswana, derived from the singular, Motswana. The Batswana are among the first tribes in southern Africa to establish permanent villages and agricultural fields, and who raised cattle, goats and sheep.

## Demography of the Batswana

According to the 2001 census, the Batswana tribe in Namibia comprises about 10,000 people. They mostly inhabit the Omaheke Region, although there are small pockets of communities elsewhere in the country.

## Language and literature

Setswana differs from other Sotho languages. Unlike Southern Sotho, for example, Setswana has no clicks; it also uses the velar fricative written as *g* instead of the aspirant written as *h*, e.g. *bogadi* in Setswana is the equivalent of *bohadi* in Southern Sotho. Unlike Northern Sotho, it has the relative ending *-ng* instead of *-go*, as in *dirang* (Setswana) versus *dirago* (Northern Sotho).

Dialectal variants abound in Setswana:

- (a) Noun Class 11 (prefix *lo-*) in the south, e.g. *lorato* in Serolong, but in the north and east it is merged with Class 5 (prefix *le-*), e.g. *lerato*

- (b) The use of *š* in the south for the *s* of other dialects, e.g. *tšwa* (“to come out”) in Serolong, but *tswa* elsewhere
- (c) The use of *t* in the north for the *tl* of other dialects, e.g. *tou* (“elephant”) in Sengwato, but *tlou* elsewhere
- (d) Use in the east of the conjunctive *ge* (“if”) in Sekgatla for the *ha* or *fa* of other dialects, and
- (e) The possessive concords *ja-* (Class 5) and *jwa-* (Class 14) in the south, and occasionally in the north, for the *la-* and *ba-* of the east.

At the time of the standardisation of Setswana, many of these dialectical variants had already appeared in printed books.

Setswana is still in its infancy in Namibian schools, due to the limited number of Batswana learners. Usage is still confined to the Gobabis–Aminuis–Epukiro Pos 3 area. Moreover, English and Afrikaans are widely spoken among the Batswana people, and many loan words have been incorporated into Setswana, especially from Afrikaans. These include *polasa* (*plaas*/farm), *selaga* (*slaghuis*/butchery), and *borukhwe* (*broek*/pants). The first school for Batswana learners was started among the Batlhaping in 1825 by Dr Robert Moffat, where Setswana was taught and developed.

Setswana is the first black language into which the Bible was translated and published in southern Africa. Some of the early Batswana writers include Sol Plaatje, M Kgasi, DP Moloto, DM Ramoshoana, LD Raditladi, and MOM Seboni. Namibia is also developing its own new crop of Setswana writers and already a man like Siballi Mogetsi is an up and coming published poet.

Several Setswana newspapers had already been published during the 19th Century. Various mission societies had published *Molekudi wa Bechuana* (monthly, 1856–1857), *Mokaedi wa Becwana* (monthly, 1857–1859), *Mahoko a Becwana* (monthly, 1883–1898), and *Mosupa-Tsela* (monthly, since 1913 for several years), while *Koranta ea Becwana* (weekly, 1901–1908) and *Tsala ea Batho* (weekly, 1910–1916) were published by Batswana writers.



## DIKAMOGELO

Repaboliki ya Namibia e bone kgololesego ka La 21 Mopitlwe, 1990, morago ga dingwaga dile dintsi tsa ntwaga e e neng e tlhabanwa ke bara le baradi. Bagolo ba ba kwadileng Molaotheo wa lefatshe le lešwa la Namibia, ba rulagantse gore Dikgotla Tsa Merafe le tsone di akarediwe mo Molaotheong, ele gore le tsone dinne le karolo mo pusong. Lefa le re tlogeletsweng ke bagologolo ba rona ba Aferika, ke lona lesedi la mosupatsela la masika a isago. Jaaka go ntse jalo mo lefatsheng lotlhe, bana ba rata go itse gore ba tswa kae, gore ba tle ba kgone go tlhomamisa gore ba ye kae.

Batswana ba Namibia, jaaka merafe e mengwe ya lefatshe la rona, ba tswa kwa mafelong a a farologaneng a Aferika, jaaka re itse ka ga merafe yotlhe ya Batho Ba Batsho ba Aferika Borwa. Go a itsege gore morafe wa Ba-Khoi San ke one baagi ba ntlha mo Aferika Borwa. Batho ba Batsho bona ba tlile morago go tla go aga mono.

Setlhophanyana se sengwe sa Batswana sene sa leba Bophirima sa itshenkela bodulonyana kwa dikgaolong tsa botlhabela jwa Namibia. Mo malatsing ao a go neng go busa lerumo, e ne ele ba ba thata fela ba ba neng ba sala ba tshela, ka ntlha ya dintwa tse di neng di sa tlhophe ope, mme di kgabaganya mo gare ga ditsala di kgaoganya batho. Batho ba ba neng ba tswa kwa borwa (Kapa) ba ne ba le lesego ka gonne kwa borwa ke ko go neng go le ditlhobolo, di rekisiwa ke barekisi ba makgoa. Ka nako e Batswana ba tla go thibelela mo Namibia, ke ga ba setse ba dule mo dintweng tse di ntsi kwa mafelong a Kapa Bokone, mme le gone ba ne ba setse ba utlwile kaga botshelo jo bošwa jwa Bokeresete. Baruti ba ba jaaka Ngaka Moffat le Ngaka Livingstone, ba ne ba setse ba tlhomile tumelo kwa kgaolong ya Taung–Mahikeng–Kuruman. Batswana ba ne ba rutilwe go lwa ka ditlhobolo mo nakong ya dintwa tsa ga Andries Waterboer, le Nicholas mor’agwe, le ba ba ntsi ba morafe wa Khoisan ba dinako tseowa.

Ke tsone dinako tseowa tse di re neileng setso se re tshelang ka sone gompijeno. Setso sa rona se santsane se tshela sentle mo ditlhaloganyong tsa bogolo ba rona ba gompijeno, ba ba neilweng hisetori ya masika a bogologolo ka lefoko la molomo. Re e naya bana ba rona mo Namibia gompijeno ka boitumelo jo botona mo lokwalong lo.

A Morena Modimo O tshegofatse Namibia.

### **Constans Letang Kgosiemang**

KGOSI KA SETSO SA BATSWANA BA NAMIBIA, 1979–2012

## Hisetori ka Bokhutshwane

Ga go bosupi jo bo tletseng jwa gore Batswana batswa kae, jaana re ka amogela gore ba kgaogane le setlhophha se setona sa Batho kwa mafelong a Matsha a Matona, mme ba hudugela borwa. Baitseanape ba akanya gore ba tsene mo Aferika Borwa ka ditlhophha tse tharo tsa phalalo : Sa ntlha se emelwa ke batho ba ba bidiwang Bakgalagadi gompijeno, ba ba rileng ba goroga mono ba itlhakanya le morafe wa Basarwa (San). Morago ga latela bagologolo ba Barolong le Batlhaping ba ba itseweng gompijeno, mme bone ba tla ba thibeleda mo Nokeng ya Molopo. Khudugo ya boraro e ne ele tona go feta tse dingwe mme yone ya goroga le bagologolo ba merafe yotlhe ya batho ba ba bidiwang Basotho. Bone ba thibeleda kwa Transvaal Bophirima, morage go meng go bidiwa swa Aferika Borwa, mme ka bonakwanyana ba kgaogana ditlhophha di le dintsi: Ba-Hurutshe, Ba-Kwena le Bakgatla.

Sengwe se se itsegeng ka ga hisetori ya Batswana e ne ele go ngalelana dinako tsotlhe batho ba kgaogana le morafe o o busang go ya go aga go sele ka ntlha ya dikomano le go se utlwane. Ke ga ba ya go itlhoma go sele le go simolola morafe o mongwe mme moeteledipele a nna kgosi. Morafe o mošwa o tla bidiwa ka leina la kgosi ya one. Barolong ba rile ba falala ga tswa Batlhaping, BaMaidi, BaKaa, le ditlhophana tse dintsi tse dinyenyane tse gantsi di neng di sa ipitse Barolong, jaana di lemogwa ka maina a batlhomi ba tsone: Baga-Rratlou, Batshidi, Baga-Seleka, Baga-Rrapulana, Baga-Modibowa, Baga-Mosadi, j.j.

BaHurutshe, ba go tweng ene ele bone baeteledipele ba khudugo ya bofelo go tswa kwa bokone, ba falala mme ba tswa merafe ya BaHurutshe ba gompijeno: BagaManyana, BagaMokhubidu, BagaMoilwa, BagaGopane, BaTlharo, BaKhurutshe, j.j. Morafe wa Bakgatla, letlhogedi lantlha la BaHurutshe, la kgaogana mme ga tswa merafe ya Bakgatla ba gompijeno: BagaMosetlha, BagaKgafela, BagaMmanaana, BagaMmakau, BagaMotšha, BaTlokwa le Bapedi (gompijeno ba tlhophiwa ele Basotho ba Legare). BaKwena, le bone ele letlhogedi la BaHurutshe, ba falala mme ya nna BaFokeng, BagaMogopa, BagaModimosana, BaPhalane, j.j. karolo ya BagaMogopa morago ba ngala mme ba leba Bophirima mo dingwageng tsa bo 1720.

Batho ba gompijeno ba itsegeng ele BaKwena BagaSechele, ene ele morafe wa ntlha wa Batswana ba ba agileng mo lefatsheng le gompijeno le bidiwang Botswana. Morago BaNgwaketse le BaNgwato ba kgaogana le bona. BaTawana ba kgaogana le BaNgwato.

Batswana ba Namibia ke losika lo lo tswang mo Batswaneng ba ntlha ba ba kileng ba kopana le Baruti ba Bakresete ka ngwaga wa 1816, kwa bokone jwa Kapa. Barekisi, batsomi le bautulodi ba etela merafe e mentsi mo kgaolong eowa, mme moragwanyana ke ga dikereke di tlhomiwa mo gare ga Barolong mo ngwageng wa 1822, BaHurutshe ka ngwaga wa 1836, BaKgatlha baga Mmanaana ka ngwaga wa 1843, le BaKwena ka ngwaga wa 1846. Ngaka David Livingstone a bula tsela ya go ya bokone ka go ribolola letsha la Ngami ka 1849.

Ga ba sena go tsena mo Transvaal, MaBuru a Maforoterekere ba gapeletsa merafe go dira mo mapolaseng a bone. Merafe e mentsi ya ngala mme ya huduga. Baga Ntlo ya Bogosi ya ga Kgosi Morwe II le bone ba hudugela kwa Deutsche Sudwes Aferika ka 1885, ele se se tlhalosang gore Batlharo ba ne ba itse lefatshe sentle. Mme go itsege sentle gore le Kgosi Mothibi o kile a romela Batlhaping ba gagwe ka bogwebi kwa Angola Borwa mo ngwageng wa 1830. Go akangwa gore Batlharo le bone ba ne ba setse ba kile ba ja nala mo Aferika Borwa Bophirima pele.

Ka go falala ga merafe e mentsi go leba bophirima le bokone, e menyenyane le yone e rile e falala ya tla go tsena mo Aferika Borwa Bophirima. Merafe e e thibeletseng mo Tshireletsong ene e le ya Mmanaana-Kgatla, Maletse, Tlokwa, Kgafela-Kgatla le ditlhophatse pedi tsa BaHurutshe. Kwa mafelelong a palokgolo ya lesomerobanngwe, morafe wa Batswana o ne o setse o tlhomilwe kwa bokone jwa Kapa, British Bechuanaland le Transvaal.

Ba ba neng ba kgabagantse go tsena mo Aferika Borwa Bophirima bone ba tla go itlhomea gautshwane le Mokala wa gompijeno (motse-mogolo), gautshwane le molelwane wa Botswana mme ele kwa kgaolong ya Corridor/Aminuis, mme gape le go ya kwa Epukiro. Ba bangwe ba ya go aga kwa Aroab, Naosanabis, Dikgatlong, Kaqukurus, Skaaprivier, Nossob, Okahandja, Waterberg, Dikgokonyeng (Vasdraai- Resettlement), Gobabis, le go isa kwa bokone kwa kgaolong ya Kavango. Batho ba e rile morago ba kgatlhwa ke tumelo ya Baruti ba Matoitšhi ba Kereke ya Katoliki, ba ba neng ba ruta mo gare ga Batswana. Gompijeno dipesente tse di fetang masome a le robapedi tsa Batswana ba Namibia ke ditokololo tsa Kereke ya Roma. Mo gare ga bone go Barolong, Batlharo, BaHurutshe, BaTawana le BaKgatla. Ka ntlha ya botshelo jwa sekhowa le melao ya sekoloni, ba tshela mmogo ele lelapa le le lengwe le letona.

## **Matso a Bogosi jwa Batswana mo Aferika Borwa – Poeletso ya ditiragalo ka bokhutshwane**

Ka go ya ka Hisetori ya Molomo, matso otlhe a bogosi jwa Batswana a tswa kwa ditlhogong di le tharo tsa bagologolo, ele. Morolong, Masilo le Mokgatla. Ka go ya ka hisetori, Morolong o ne a agile kwa bophirima jwa Witwatersrand, e gompijeno e bidiwang Gauteng, mo nakong ya 13 go isa 14 dingwagakgolo. Masilo ene o ne a agile kwa bokone jwa Witwatersrand mo dingwageng tsa 14 le 15 dingwagakgolo; Mokgatla o ne a agile kwa bokone-botlhaba jwa Witwatersrand mo nakong ya 15 le 16 dingwagakgolo. Boraro jwa bone ba ne ba kile ba nna le maatla mo matshelong a bone. Baitseanape ba hisetori ba re losika lwa ga Morolong ene ele barula-tshipi. Gongwe ke ka ntlha e morago ba neng ba bidiwa babina-tshipi. Losika lwa ga Masilo lone lo ne lo tshela mo gare ga mabala a bojang le dikgwa. Ka ntlha ya phulo e ntsi ba nna barui. Losika lwa ga Mokgatla lone lwa aga mo tseleng ya kgebo e e neng e tswa kwa Mabaleng (Free State) go ya Kgalagadi.

BaRolong ba ntlha ba hudugela Bophirima kwa Kgalagadi ka dingwaga tsa bo 1500. Losika lwa ga Masilo lwa kgaogana masika ale mabedi go ya kwa bofelong jwa

dingwaga-lekgolo tsa 15 kgotsa mo tshimologong ya 16 ka ntlha ya go lwela bogosi. Kgosi ya nnete e ne ele mosadi a bidiwa Mohurutshe, setlogolo sa ga Masilo. Bagolo ba latela monnawe Kwenā gore a nne kgosi. Mohurutshe ene a sia a ya go nna le BaRolong. Morago ga loso lwa ga Mohurutshe bara ba gagwe ba babedi Motebejane le Motebele, ba boela kwa sekgweng. E rile morago ba kgaogana mme Motebejane a tlhoma motse wa gagwe mo thabeng gautshwane le mo gompijeno go bidiwang Zeerust, mme a o bitsa Tshwenyane. Motebele a siela borwa-botlhaba, ya re morago a boa le batlhabani ba MaZulu, mme ba tlhasela Tshwenyane. Go bonala gore e rile morago batlhabani ba ba MaZulu ba ga Motebele, ba bidiwa Matebele (batho ba ga Motebele). Motebele a siela bophirima, mme morago a leba bokone. Ke gone ko a tlhomilweng kgosi jwa Bapedi ba Gananwa. Mo gare ga dingwagalekgolo tsa 17, BaHurutshe ba kgaogana ditlhophā di le pedi, kgosi ya bone ga e sena go fengwa mo ntweng, mme bangwe ba ipitsa BaKwena. Ga tsena bogosi jo bongwe, mme ba tsaya leina la mogologolo wa bone Ngwaketse.

Masika a BaTlokwa le BaKgatla a kgaogana le losika lwa ga Mokgatla mo nakong ya dingwagalekgolo 16. Ba leba bophirima pele, ya re morago ba boa ba leba borwa ba ya go tlhoma kwa Tlokwe (Potchefstroom), mme ba tsaya leina la BaTlokwa. Kwa Tlokwe ga simolola masika a mantsi a bogosi mme a leba dintlha tsa botlhaba, bophirima, bokone le borwa. Mo bogareng jwa dingwagalekgolo 18, kgotla e tona ya Batlokwa ya huduga mme ya tlhoma motse kwa dithabeng tsa ga Pilane (Pilanesberg).

BaKgatla ba ntlha ba kwa bokone-botlhaba jwa Witwatersrand ba kgaogana masika a le mabedi mo tlase ga Mogale le Tabane mo dingwagengkgolo tsa 17. Mogale a leba Bophirima mme Tabane ene a sala mo ba simologileng gone. Monnawe Tabane a hudugela botlhaba mo a tlhomileng bogosi jwa BaPedi ba dithaba tsa Leolo. Losika lwa ga Mogale le lone lwa tswa ditlhophā di le pedi mme mora wa gagwe Kgafela a siela bophirima mo a tlhomileng bogosi jwa ga Kgafela-Kgatla kwa Pilanesberg.

Mo nakong eowa Barolong bone ba atela kwa Bophirima go fitlhelela ba kopana le Bakgothu le Bakora. Ba simolola kgwebo ka dithoto tsa tshipi, mme ba kopana le badisa ba batho batsho ba kwa Namibia mo gare ga dingwagakgolo tsa 17. Magosi a a neng a na le maatla mme a itsege a Barolong ene ele Thibela le mora wa gagwe Tau, ba ba neng ba busa mo dingwagakgolong tsa 16 le 17. Bone e ne ele Magosi ka boammaaruri ka gonne ba ne ba tlhomile motse wa puso ya goya go ile, mme ba busa merafe e mengwe. Motsemogolo wa bone, o o tlhomilweng ke Thibela, morago wa bidiwa Taung. Batlhanka ba bone ba ne ba ekaretsa Bakora, Bakgalagadi le BaHurutshe.

BaRolong ba tlhoma motse o motona wa Dithakong, mme ba godisa mmuso wa bona go isa Namibia.

Ka go ya ka setso sa BaHerero ka molomo, ba ne ba fentswe ke kgosi ya Motswana kwa Okahandja a bidiwa Kativine, mo dingwagengkgolo tsa 17 – yo gongwe e neng ele Thibela kgotsa mongwe wa batsamaisa-ntwa ba gagwe. Kgwebo mo gare ga Barolong le BaHerero e ne ele ka dikgomo le dithoto tsa tshipi. Batswana ba ne ba rata dikgomo tsa dinaka tse ditelele tsa Namibia.



Morago ga loso lwa Tau mmuso wa boela kwa Mahikeng. Mora wa ga Tau, Ratlou, a tsaya bogosi jwa ga rra'gwe. A latelelwa ke bara ba bangwe baga Tau-Seleka, Tshidi le Rapulana. Mora wa bofelo wa ga Tau, Makgetla, a tlhokafala mo ntweng le BaHurutshe ka 1805. Morago ga loso lwa gagwe ya bo ele bofelo ka ga mmuso wa Barolong, wa falala.

## Ditlhopha le Magae a Batswana Ba Aferika Borwa<sup>6</sup>

Re amogela ka kakaretso gore go ditlhopha di le pedi tsa Batswana: Batswana ba kwa botlhaba le Batswana ba kwa Bophirima. Ditlhopha tse pedi tse di agile mo kgaolong e tona thata go simolola mo Gobabis mo lefatsheng la Namibia go yo re 'tii' kwa Pretoria mo Aferika Borwa, le go tswa kwa bokone jwa Botswana kwa Meeding ya Okavango go isa kwa Kimberley. Setšhaba sa Batswana se ne se kile sa ikopanya le merafe ele mentsi mo nakong ya dingwaga di le dintsi, ka jalo go ka se ka gat we Batswana e sa le morafe o o itshekileng le gale.

Mo nakong ya dintwa tsa Imfecane, fa Mazulu ba ne ba kgarakgatshega kwa Mabaleng (Foreisetata gompijeno – Free State) mme morago Transvaal, basimane le basetsanyana ba le bantsi ba Batswana ba ne ba gapiwa ke bafenyi go nna batlhabani, basadi, kgotsa makgoba. Bagapi ba batona Mzilikazi le Sebitwane ba na ba kile ba tlhokofatsa Batswana mo kgaolong khutlotharo ya Taung–Kudumane–Mahikeng mo dingwageng-kgolo tsa some- le- bongwe. E rile ka nako yone eowa ya dintwa tse ditona, Batswana ba bangwe ba hudugela mo Namibia, mo ba amogetsweng ke Bakgothu le Baherero.

### Batlhaping

Phuduhutswana  
Maidi

K. Taung, Vryburg, Barkly West  
K. Taung

### Barolong

Barolong Rratlou  
BaTshidi (Bakhidi)  
Seleka  
Rrapulana  
Tloung  
Bakaa  
Kubung

T. Lichtenburg, K. Mahikeng, Vryburg  
K. Mahikeng, B. Lobatse  
F. Thaba Nchu, B. Francistown  
T. Lichtenburg, K. Mahikeng  
T. Lichtenburg  
B. Mochudi, Ngwato, Kweneng  
T. Ventersdorp

### BaHurutshe

Manyana  
Mokhubidu  
Gopane  
Moilwa

B. Ngwaketse, T. Marico (Madikwe)  
B. Kweneng, T. Marico  
T. Marico  
T. Marico

6 Dikgoro tse di tona tsa Batswana ba Bophirima ke tse: Senotlolo: K = Kapa; T = Transvaal; F = Foreisetata; B = Botswana.

|             |                               |
|-------------|-------------------------------|
| Khurutshe   | B. Francistown                |
| Batlharo    | K. Mahikeng, Vryburg, Kuruman |
| Nogeng      | T. Lichtenburg                |
| Bakwena     | B. Kweneng                    |
| BaNgwaketse | B. Ngwaketse                  |
| BaNgwato    | B. Ngwato                     |
| BaTawana    | B. Ngamiland                  |

Batswana ba kwa Botlhaba ba wela mo ditlhopheng di le pedi:

### **Bakwena**

|            |                                      |
|------------|--------------------------------------|
| Bafokeng   | T. Rustenburg, Ventersdorp           |
| Mogopa     | T. Pretoria, Rustenburg, Ventersdorp |
| Mmamela    | T. Rustenburg                        |
| Modimosana | T. Rustenburg                        |
| Mmatau     | T. Rustenburg                        |
| Matlaku    | T. Rustenburg                        |
| Phalane    | T. Rustenburg, Marico                |
| Tlhalerwa  | T. Rustenburg                        |
| Phiring    | T. Rustenburg                        |
| Taung      | T. Rustenburg                        |

### **Bakgatla**

|           |                            |
|-----------|----------------------------|
| Mosetlha  | T. Pretoria                |
| Kgafela   | B. Mochudi, T. Rustenburg  |
| Mmanaana  | B. Kweneng, Ngwaketse      |
| Mmakau    | T. Pretoria                |
| Motsha    | T. Pretoria                |
| Seabe     | T. Pretoria                |
| Bididi    | T. Waterberg               |
| Thethe    | B. Gaborone, T. Rustenburg |
| Motsatsie | T. Rustenburg              |
| Malete    | B. Gaborone, T. Marico     |
| Tlhako    | T. Rustenburg              |
| Seleka    | T. Potgietersrust          |
| BaPo      | T. Rustenburg              |
| BaHwaduba | T. Pretoria                |

Batswana ba Namibia ba simologa mo dikgorong tse di latelelang:

|             |                                     |
|-------------|-------------------------------------|
| Barolong    | K. Batshidi, Taung–Kuruman–Mahikeng |
| BaNgwaketse | K. Kuruman                          |
| Batlharo    | K. Mahikeng, Vryburg, Kuruman       |
| BaHurutshe  | T. Marico                           |
| BaKgatla    | B. Mochudi                          |

|             |                    |
|-------------|--------------------|
| BaTawana    | B. Ngamiland       |
| BaKgalagadi | B. Baagi ba sekaka |
| Batlhaping  | K. Taung           |
| Bakwena     | T. Rustenburg      |

Go itsege sentle, mme go amogelwa gore Batswana ba ba agileng mo Namibia, ga se batho ba ba simologileng mono. Mo nakong e telele, batho ba go tweng ke Batswana ba ne ba agile kwa botlhaba jwa sekaka sa Kgalagadi go tswa bokone jwa Botswana go isa borwa kwa bokone jwa Kapa, le go isa botlhaba kwa Pretoria, le borwa kwa bokone jwa Foreisetata (Free State).

Ka go ya ka ditlhamane, ga twe ba bangwe ba Batswana ba Namibia ba tswa kwa Kapa bokone kwa mafelong a Kuruman (Kudumane), Vryburg, Taung le Mahikeng.

Go utlwala gore barekisi ba ne ba tsamaya le bathusi ba Batswana ba ba neng ba thusa ka go toloka, mme morago ba utlwana go aga mo Namibia, mo ba leng gone le gompijeno. Ba bangwe ba ne ba tswa mo Botswana, mme bone ba ne ba le banyenyane ka palo.

### **Batswana ba Legare le Bokone jwa Botswana**

Morafe wa Bakaa ba amoga babusi ba bone BaHurutshe dithaba tsa Shoshong ka 1760. Kgotla e nyenyane ya ga Kgabo-Kwena e bidiwa Ngwato ya amola ka 1770 le go siela bokone. Bara ba le babedi ba ga kgosi ya Ngwato Mathiba, ba kgaoganya batho ba gagwe ditlhophadi di le pedi. Tawana, mora yo a neng a ratiwa ke Mathiba, a fenngwa ke Khama I mo dingwageng tsa bo 1790. BaNgwato ba boela mo thateng ya bone fa go busa Kgari.

### **Dintwa tsa Batswana ba kwa Bophirima, 1805–1820**

Puso e e neng ele thata pele ya Hurutshe kwa Kurechane ya koafatswa ke dikomano tse di sa feleng. Ba ga Kgafela-Kgatla le bone ba koafala mme ba kgaogana ka yone nako eowa. Puso ya BaNgwaketse kwa bophirima mo tlase ga Makaba II le puso ya BaTlhaping kwa borwa mo tlase ga Molehabangwe ene e thatafetse. Ba ne ba gweba le go tlhasela go ya kgakala kwa BaHererong ba Namibia. Barekisi ba makhowa ba ne ba gagametse go bona motsemogolo wa BaTlhaping kwa Dithakong o feta Cape Town, e ka dinako tseowa e neng e na le baagi ba le dikete di le sometlhano. Ka 1808 BaTlhaping, BaNgwaketse le BaKwena ba dira kopano mme ba tlhasela motsemogolo wa Makaba kwa Kanye. Kgosi ya bofelo e e thata, Sebogodi wa BaHurutshe, a bolawa ka 1815.

Kgosi ya bofelo ya BaTlhaping, Mothibi, a tlhokafala ka 1845. Puso ya gagwe ya falala mme karolo e tona ya yone ya buswa ke monnawe Mahura (1845–1869) go fitlha kwa Kudumane (Kuruman). Mora yo mogolo wa ga Mothibi, Gasebone, ene a busa kwa borwa (1845–1858). Mora yo o mmotlana Jantjie (1845–1881), le ene o ne a busa kwa borwa. Maida – Tlhaping le BaTlharo bone ba ne ba buswa ke Toto (a belegwe ka 1808

– a tlhokafala 1901). BaTshidi ba buswa ke Montshiwa go tswa 1849–1896. BaRolong ba ga Rratlou ba buswa ke Gontse go tswa 1840–1853. Dintwa le Maburu tsa ba tsa ba falaletsa Bophirima. BaNgwaketse ba rile go falatswa ke Matebele a ga Mzilikazi, ya re morago ba kopana mo tlase ga dikgosi dile pedi, Gaseitsewe le Senthufe ka 1853 mme morago ba aga kwa Kanye go tswa 1857 go isa 1889. BaRolong ba ga Montshiwa ba siela kwa go Gaseitsewe ka 1852 mme ba aga mo pusong ya Ngwaketse kwa Mosaneng go fitlha ka 1870.

Kgosi Sechele wa BaKwena le ene a aga puso ya gagwe, mme a bitsa baruti. A nna Mokresete yo o bothlokwa mo gare ga Batswana botlhe mo dingwageng tsa 1840 go isa 1870. E ne ele ene Motswana wa ntlha yo o kileng a rerela Matebele ele moruti pele ga Robert Moffat. Sechele a busa BaKwena kwa Molepolole go tswa 1829 go isa 1892.

Khama (1835–1823) e ne ele moja-boswa wa ga Sekgoma wa BaNgwato. A sokologa a nna Mokresete mme a busa go tswa 1875 go isa 1923. O sa gakologelwa ka ga meth eo ya gagwe ya Sekresete le go ganetsa batho go nwa kgadi. A tlhokofala ka 1923.

## **Tshimologo ya Batswana ba Namibia**

Batho ba go tweng ke Batswana (Bongwe: Motswana) ka kakaretso ba dira karolo e le nngwe ya dikarolo tse tharo tse di tona tse baitse-dipuo ba kokoanyang setlhoph a sa Basotho ba Legare Borwa jwa Aferika. Dithlopha tse dingwe tse pedi ke “Basotho ba Borwa” (ba Lesotho), le Basotho ba Bokone/Botlhaba (Bapedi), ba kgaolo ya bokone ya Aferika Borwa e e bidiwang Limpopo gompijeno. Bakwadi ba ntlha ba makhowa ba kwala leina le ka mekgwa ele mentsi: Beetjuana; Bichwana; Booshuana; Boochuana; Buchuana. Bechwana le yone e a dirisiwa nako e nngwe. E rile ga go simololwa go kwala mokwalo wa puo ya Setswana, tlhomamiso ya puo ya re naya molao o mošwa wa go kwala ‘Batswana’, go tswa kwa lefokong la bongwe ‘Motswana’. Setšhaba sa Batswana ke sone sa ntlha mo Aferika Borwa sa go tlhoma metse ya leruri, masimo, le go rua dikgomo, dinku le dipodi.

## **Botona jwa setšhaba sa Batswana ba Namibia**

Ka go ya ka kwalo ya batho ya 2001, setšhaba sa Batswana ba Namibia se dira batho ba le dikete di le some (10,000). Bontsi ba agile mo kgaolong ya Omaheke, mme go palo e nyenyane ya ba ba agileng mo dikgaolong tse dingwe.

## **Puo le Dikwalo**

Puo ya Setswana e farologane le dipuo tse dingwe tsa Sesotho. E farologane le Sesotho sa Lesotho ka gone ga ena dikakato, mme e dirisa tumatengwana boemong jwa tumakhetso motlh. bogadi (Setswana) = bohadi (S. Sotho). Ka go farologana le Sesotho sa Lebowa, ena le bokhutlo jwa losika lwa -ng mo boemong jwa -go motlh. dirang (Setswana) = dirago (N. Sotho).

Diteme di dintsi mo Puong ya Setswana:

- (a) Setlhophha sa Maina sa 11 (tlhogo *lo-*) kwa borwa motlh. Serolong = *lorato*, jaana eseng kwa bokone le kwa botlhaba mo e kopanang le Setlhophha 5 (tlhogo *le-*) motlhala: *lerato*
- (b) Tiriso ya *š* kwa borwa ele *s* wa diteme tse dingwe, motlhala: Serolong = *tšwaa*, ba bangwe = *tswa*
- (c) Tiriso ya *t* kwa bokone fa ba bangwe ba dirisa *tl* motlhala: Sengwato = *tou*, ba bangwe = *tlou*
- (d) Tiriso ya lekopanyi *ge* (Sekgatla) fa ba bangwe ba dirisa *ha* le *fa*
- (e) Magokarui *ja-* (setlhophha 5) le *jwa-* (setlhophha 14) kwa borwa le kwa bokone, mo boemong jwa *la-* le *ba-* kwa botlhaba.

E rile fa go tla tlhomamiso ya puo ya Setswana, diteme tse dintsi di ne di setse di gatisitse.

Puo ya Setswana e sa le kwa tlase mo dikolong tsa Namibia, ka ntlha ya palo e nyenyane ya baithuti ba Setswana. Setswana se ganelela go dirisiwa mo kgaolong ya Gobabis–Aminuis–Epukiro–motswedding. Le fa go le jalo, Batswana ba dirisa dipuo tsa Seesemane le Se-Afrikaans, mme ka ntlha eowa, mafoko a mantsi a dipuo tse, a dirisiwa mo Setswaneng, segolo a Se-Afrikaans motlh. *polasa* (plaas); *selaga* (slaghuis), *borukhwe* (broek), j.j. Sekolo sa ntlha se ne se simolotswe mo gare ga Batlhaping ka ngwaga wa 1825, ke Ngaka Robert Moffat, mme Setswana se ne se rutwa gone.

Setswana ke puo ya ntlha ya Bantsho e Beibele e neng e fetotswe le go gatisiswa ka yone mo Aferika Borwa. Ba bangwe ba bakwadi ba ntlha ba puo ya Setswana ke borre Sol Plaatje, M Kgasi, DP Moloto, DM Ramoshoana, LD Raditladi, le MOM Seboni.

Go ne go setse go le dikoranta tsa Setswana tse di neng di gatisitse mo dingwagakgolong tsa somerobonngwe; *Molekudi wa Bechuana* (ka kgwedi 1856–1857); *Mokaedi wa Becwana* (ka kgwedi 1857–1859); *Mahoko a Becwana* (ka kgwedi 1883–1898); *Mosupa-Tsela* (ka kgwedi go tswa 1913); tsotlhe di ne di gatisiwa ke Dikgolagano tsa Baruti; *Koranta ea Becwana* (ka tshipi 1901–1908); *Tsala ea Batho* (ka tshipi 1910–1916); bobeding jwa tsone di gatisiwa ke bakwadi ba Batswana.



## **MOLAO-MOTHEO WA BATSWANA BA NAMIBIA<sup>7</sup>**

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<sup>7</sup> E kopantswe ke Rre AN Matjila a nale ditokololo: tsa Lekgotla la Melao ya Setso le Dingwao tsa Batswana ba Namibia: Kgosi CL Kgosiemang (Modula-setulo), Mme E Mbuende, Rre I Thudinyane, Rre A Maritshane, Rre D Lebereki, Rre P Thataone, Rre G Bohitile, Rre S Olibile, Rre M Mosimane, Rre C Pogisho, Mme A Katamelo, Mme FK Moshosho, Mme M Ferreira, Rre AB Modisa, Rre A Makabanyane, Rre O Bendt, Mme M Slinger (Mokwaledi).





## **Ketapele**

Etswe rona Batswana ba Namibia ka tshimologo re tsene mo lefatsheng le ka bagologolo ba rona ba ba neng ba tswa kwa dikgaolong tse di farologaneng tsa Aferika Borwa segolo bokone jwa Kapa lekgolo la dingwaga tse di fetileng, mme gape;

Etswe bagologolo ba rona ba tlile go thibelela kwa dikarolong tsa botlhaba jwa Namibia gautshwane le Aminuis, Corridor le dikarolo tsa Tshipi ya Katoliki ya Roma kwa Epukiro; mme gape

Etswe bagologolo ba rona ba tlile mo Namibia ba na le ditso le dingwao tsa bone; mme gape

Etswe rona, masika a gompijeno re lemoga le go tlhompha ditso tse le dingwao ele metheo ya botshelo jwa rona; mme gape

Etswe re tsaya ditso le dingwao tse gore ke tsone tse di tlhomang boswa jwa rona mo Namibia;

Ka jalo re tlhoma dingwao, ditso le boswa jwa rona ka go di kwala jaana:

### **1. Popego ya Tikologo le Motse Mogolo**

Le fa Molaotheo wa Namibia o dumelela baagi botlhe go aga kae le kae mo ba ratang, Batswana ba Namibia ba tlhomile Motse-mogolo wa setso kwa Aminuis ba santsane ba tsena mono. O itsege ka la Mokala, go raya gore ke kwa Moding kgotsa kwa Setlhareng.

Gone koo ke mo Batswana ba ntlha ba tlhomileng metse ya bone gone, mme magosi a a ba latelelang le one a ya gone. Batho ba rona ba agile mo kgaolong ya khutlotharo ya Aminuis, Corridor le Tshipi ya Katoliki ya Roma kwa Epukiro, mo kgaolong ya Omaheke.

Setšhaba sa rona ke se senyenyanane sa batho ba ba mo tlase ga dikete di le masomepedi ka palo. Pele ga go tla ga batho ba basweu, kgaolo eowa ene e tletse diphologolo tsa mefuta, mme nama e ne e le ntsi. Le fa ele gore kgaolo e ga e a siamela temo, Batswana jaaka ele balemi ba tlhago, ba ne ba lema ba jala mabele, ditloo, maphutshe, ntšhê, le dinawa. Gompijeno batho le ga ba phatlaletse le naga, ba tsaya Aminuis gore ke kwa “gae” ko go ketekwang meletlo ya setso, ele go robatsa “badimo”.

Batswana ba Aferika Borwa ba arogane ka dikgoro di le masome-pedi – tlhano, mme kgoro nngwe le nngwe ena le phologolo kgotsa nonyane kgotsa setlhare se e leng seano, kgotsa sereto, kgotsa leboko, kgotsa seila, kgotsa seboko (selo se se tlotlegang, seano kgotsa sereto). Morafe ga o dumelelwe go ja nama ya seano (phologolo kgotsa nonyane), ka ntlha ya tlotla. Ka ntlha eowa mo nageng ya batho ba ba binang tholo, ditholo di ata ka bontsi ka gonne ga go yo o di tsomang go di ja. Diphologolo tse dingwe jaaka tau, kwena, tlou, kgabo, tshwene, di binwa ke bontsi jwa batho mo merafeng yotlhe.

Morafe mongwe le mongwe ona le ditokololo tsa diano tse dintsi: lesome-robe-pedi (18) mo gare ga BaTshidi–Rolong, lesome-thataro (16) mo gare ga BaMelete, le masome-pedi-pedi mo gare ga BaNgwaketse. Re tsaya gore batho ba seano se le sengwe ba simologa mmogo, mme ba diano tse di farologaneng le sa ga kgosi ya bone ba tswa mo dikgorong di sele.

Fa batho ba bolaya le go ja nama ya phologolo e e leng seano sa bone, ba tshwanetse go phepafadiwa ka modiro o o tshwanetseng gore ba seka ba bobola kgotsa go tsenwa ke dingalo kgotsa dikgaba. Go dumedisa motho ka seano sa gagwe mo Setswaneng ke tlotla e tona: “Dumela Tshwene!; Kgomo!; Kgabo!; Tau!; Tlou!; Kwena!”; j.j. ke ditumediso tse di tlwaelegileng mo Setswaneng. Ka bomadimabe, diano di tsamaya di fela, segolo mo diphologolo le go bonwa di sa tlholwe di bonwa, kgotsa di jewa fela batho ba sa rekegelwe ka ga diano. Ba bangwe ba ne ba gapelediwa ke batsomi ba makhowa go ja dinama tsa diano tsa bone go tse: “A o tshetseeng mo nameng fa o gana go eja?” Bana ba ba belegelwang mo ditoropong mme ba sa itse phologolo le go e bona, ga ba itse sepe ka diano.

## 2. Bong jwa Mmu

Bogologolo Batswana ba Namibia ba ne ba kgona go bona dijo ka go dirisa mmu. Kgaolo e e simololang kwa Bulawayo mo Zimbabwe go isa kwa Pretoria, Kimberly le Upington mo Aferika Borwa, go isa kwa nokeng ya Kavango ga e tsena mo Botswana kwa bokone bophirima, le go boela kwa Bulawayo, e ne ele lefatshe la Batswana bogologolo. Ba ne ba tlhomile magae a go-ya-go-ile.

Kgaolo e ba neng ba tsene mo go yone ya nna mmu wa bone mme ba o abelana ka go ya ka ngwao ya Setswana, dikgosana e le tsone tse di neng di kgaoganyetsa batho masimu. E rile ga ba kopana le batho ba ba basweu, ga tla diphatlho tse di šwa mme tsa fetola botshelo jwa batho ka bonako. Ka go di amogela ga oketsa keletso ya dilo, mme ga simolola maemo a mašwa a khumo mo setšhabeng.

Gompijeno madi ke selo sa botlhokwa mo kgwebong. Le fa go le jalo batho ba ba ntsi ba santse ba tshela ka mmu go bona dijo. Ba ruile dikgomo, dinku le dipodi, ditonki, dipitsi le dimela, ele tse di rekisiwang mo difantising go bona madi. Le fa batho ele baungwa ba mmu o ba agileng mo go one kwa Aminuis le Resefata ya Corridor, ga ba na tetla ya go o naya batsamai ka gonne ke mmu wa Goromente.

Goromente o na le maatla a go laola tiriso ya mmu, sekai: ka go ganetsa go jala dimela tse di ganeditsweng jaaka matekwane, tshireletso ya mebila le dipeipi tsa metse, poloko ya diphologolo le dikgwa, le go laola go tsamaya ga loruo.

Mo mmung wa kgosi batho ba tshwanetse go bona tetla e e kwadilweng ya Kgotla ya Morafe go gweba, le go tlhoma dikago tsa go thusa setshaba. Bagwebi ba ba jalo ba tshwanetse go duela kgosi madi a khiri ya mmu o ba gwebang mo go one. Le fa ele gore mmu wa tlhakanelo o mo taolong ya kgosi, a thuswa ke dikgosana, mmuso o na le maatla

mo mmung owa. Ga go ope yo o dumelelwang go iponela karolo e tona ya mmu le go aga terata go e dirisa o le esi.

Motho mongwe le mongwe o newa karolo e e lekaneng ya mmu e a e dirisang go tlhoma lelapa la bana ba gagwe. Fa a ntse a tsamaisa lelapa la gagwe mme a dirisa mmu, ona le ditshwanelo tse di tletseng mo go one. Fa a tlhokafala mmu o tla wela mo mabogong a bana ba gagwe. E bile basadi ba na le ditshwanelo tse di tshwanang le tsa banna mo Namibia, mme le bone ba newa mmu le fa ba sa nyalwa.

Go na le mmu wa mathibelelo mo baagi ba thibeletswang ke Mmuso fa ba sena mo ba ka dulang gone. Mmu o o ntseng jalo ga o hirisiwe kgotsa go rekisiwa ke ba ba agileng mo go one. Go tlhomilwe meraka ele mentsi mo karolong ya Gobabis kwa kgaolong ya Omaheke, mme Batswana ba le bantsi ba neilwe meraka go fudisa maruo a bone sekai Tjaka/Ben-Hur, Ombirisu/Orion, j.j. Barui ba Batswana ba ba tswelletseng ba rekile dipolasa mme ba gweba ka leruo.

## **2.1 Malapa le Dithoto**

Ntlo ya setso ya Setswana e ne e agiwa sedikadike ka dithupa le mmu mme e rulelwa ka bojang. E ne e leba kwa botlhaba gore batho ba bone lesedi mo mosong. Kwa Bophirima go ne go tlhongwa pinagare ya go tsholetsa borulelo. Ene e direlwa setswalo se se logilweng ka dithupa. Go ne go sena mafensetere jaaka matlo a sekgowa. Mo tlung go ne go dilwa ka mmu mme e bewa boloko jwa kgomo. Go ne go le diroto, meseme, metlhotlo, maselo, dinkgo, dikobo, dikika, masô, j.j... mo teng.

## **2.2 Phatlhoso ya Diruiwa**

Batswana ke balemi-rui ba tlholego. Ba a lema mme ba rua dikgomo, dinku le dipodi. Mo Namibia mmu ga o na monontsho jaaka kwa bophirima jwa Transvaal, jo bo bidiwang North West gompjeno. Kwa mafatsheng ao batho ba jala mabele, mmidi, dinawa, maphutshe le dipotata.

Mo Namibia tirokgolo ke loruo. Batswana ba Namibia ke barui ba dikgomo, mme jaana ba na le metlhape e metona ya dinku le dipodi. Makgoa ba rile ba goroga ba tla le ditonki le dipere (dipitse) tse di dirisiwang go goga makoloi, le go rwala diphatlho. Ga go itsiwe gore meraka ka bongwe e na le loruo lolo kaakang, ka gonne ga go dikwalo tse di kaetsang.

Ka ntlha e nngwe go batho ba e leng Batswana ba ba senang loruo. Dipitse le ditonki di dirisiwa go palangwa le go goga dikariki. Nama ya dikgomo, dinku, dipodi, le ya ditonki le dipitse ke sešaba mme masi le madila le one ke sešaba. Mafura a itshiwa mo mašing go dira serethe. Dikgomo, dinku le dipodi di thusa batho mo manyalong ka bogadi kgotsa mokwele. Dipholo le tsone di golegwa go goga dilei. Jaaka dikgomo di kaetsa maemo a batho barui ba bantsi ba ikanya go rekisa kwa difantising nako le nako. Mekgwa e

mešwa ya borui e tlhomphiwa thata mme loruo lo entiwa nako le nako, le go tipiwa le go nwsowa melemo.go lwantsha dikgofa le matlhoko.

Go tlhotlheletsa barui, baitseanape ba loruo ba Lefapha la Temothuo ba tshwara dithuto tsa borui nako le nako, ba tlhokomela le go thusa ka tsa loruo. Thuso e nngwe ke ya go thusa barui ka dikadimo tsa madi go reka didiriso, loruo le bomatšhini.

Kgaolo ya Omaheke e siame thata mo loruong ka gonne ena le phulo e ntsi morago ga dipula. Le fa gole jalo leuba le a gakala fa go sena pula. Ka nako ya leuba barui ba lebile Goromente go thusa ka dithulaganyo tsa leuba go reka furu le losereng ka ketleetso. Metsi a bonwa mo didibeng tse di epilweng ke Lefapha la Temothuo la Mmuso.

### **2.3 Kumo ya Dijo**

Ka setso batho ba rona ba ne ba tshela ka bogobe jwa mabele jo go tweng ke “tiing”, le jwa bupe jwa mmidi. Dijo tse dingwe tse di lengwang tse di jaaka dinawa, dipotata, maphutshe, ditloo le ditonkomane, di ne di jewa ele dijo tsa malatsi. Mo nakong ya pula go ne go jewa morogo wa thepe, ye e neng e tlhoga gotlhe mo metseng. Dipodi le dikgomo di a gangwa go nwewa maši le madila. Nama e ne e bonwa ka go tsoma, ka gonne loruo lo ne lo sa tlhabiwe-tlhabiwe fela.

Batho ba bantsi ba ne ba ja mofuta o o tshwanang wa dijo, ga ese fa dijo tse dingwe di ne di ganediwa ba bangwe ka bong, diano, bogolo, gongwe le morafe. Basetsanyana ba ne ba sa dumelelwe go ja mae. Batho ba ba neng ba bina tholo ba ne ba sa letlelelwa go ja nama ya yone. Mosimane one a sa dumelelwe go ja serope sa koko.

BoMalome ba ne ba newa ditlhogo fa go tlhabiwa dikgomo. BoRakgadi le bone ba ne ba newa ditlhana. Diphio le marete a kgomo fa e fagolwa, boboko jwa seruiwa fa se tlhabilwe, di ne di jewa ke bannabagolo. E rile fa makgoa ba tla, ba ruta batho go jala merogo e mentsi-ntsi e jaaka ditamati, dieie, makwele, khabetšhe, j.j. tse di tlhaolegileng.

Re bone monate wa tee, sukiri, borotheo, dinama le maungo a a mo malekaneng. Ka ntlha ya tlotla ya tiro ye e tlhomilweng ke beng ba tiro ba basweu mo nakong e telele, batho ba tlwaetse go ja gararo ka letsatsi k.g.r. sefitlholo pele ga tiro, dijotshegare le molalelo. Dijo tse di botlhokwa tota ke one molalelo.

Le fa go le jalo phefeano e sa le gone mo gare ga batho ba rona ka ntlha ya bohumanegi. Bupe jwa mabele bo diriwa bojalwa jwa Setswana mo malatsing a se makae. Bojalwa jwa Setswana bo nonofisa thata. Go tla ga makgoa le gone go lerile khadi jaaka boranti. Morago batho ba rona ke ga ba tsenwa ke khadi mo mading, setagi se se diriwang ka dinotshe/dithetlwa. Motsoko o ne o rekwa kwa moseja, mme morago wa jalwa mono, o dirisiwa ke batho ba bantsi ba rona. Disekerete di ne tsa atlega thata ga di tsena mo gare ga batho ba rona. Matekwane, a a bidiwang motsoko wa batlhabani (motsoko wa marumo) a ne a gogiwa ke bagolo fela kwa malatsing a bogologolo. Fela mebuso ya

makoloni ya ganetsa batho go a goga le go a lema. Gompijeno fa motho a tshwarwa a goga matekwane o isiwa kgolegong kgotsa o ka tlhaodisiwa madi a mantsi. Kgotla ya rona ya Morafe e ganetsa batho go goga matekwane.

### **3. Kgodiso ya Khumo**

#### **3.1 Tiro ya Botsweretshi, Tiro ya Boitseanape, Kgabiso**

##### **3.1.1 Diaparo le Dikgabiso**

Kwa tlholegong, Batswana ba ne ba dira diaparo ka matlalo a diphologolo tsa mo gae le tsa kwa nageng. Bana ba ne ba tswala matlalonyana fa pele, mme basimane le banna ba ne ba tswala tshega. Basadi ba ne ba tswala mosese le thikga ya matlalo. Go ne go tswalwa le lebutla kgotsa kgaswana, le dimpheetšhane. Dikobo di ne di dirwa ka matlalo a diphologolo, mme jaana di ne di sugiwa go nna boleta-leta. Matlalo a dibatanyana jaaka diphage a ne a dira dikobo tse di tlhaolegileng tsa bahumi le dikgosi.

Bontsi jwa batho bo ne bo na le dikgabiso tsa mefuta. Go ne go le dibaga, maseka a mabogo, maseka a dinao, le difaga tse di fololetsweng, bothale jwa kgotlho, kgotsa bojang. Diaparo tse di neng di dirilwe ka mokgwa o o tlhabologileng le dikgabiso di ne di tswalwa ka dinako tse di tlhabologileng le meletlo. Bagwera bojale le batlhabani le bone ba ne ba na le diaparo tse di tlhabologileng. Ka mokgwa o o tshwanang, basadi ba ba neng ba nyalwa ba ne ba tswala diaparo tse di neng di dirilwe ka mokgwa o o tlhabologileng gore ba bonagale bontle mo pele ga banna ba bone.

Mo malatsing a gompijeno batho ba gakologelwa ka ga diaparo tsa setso mo dinakong tse di tlhabologileng fela. Dikhai tsa makhowa di tlile go aga goya-go-ile, ebile batho ba rona ba setse ba itse go loga dikhai tsa sekgoa tsa se-gompijeno. Dikgabiso ke maseka a gouta, disupanako, dipalamonwana, dikeetane le ditalama. Diteemane, maje a a neng a dirisiwa ke dingaka makgoa a ise a tle mono, gompijeno di rwalwa mo dipalamonwaneng tse di turang go ntsha bontle jwa basadi ba rona. Ka boammaaruri, go nyala mosadi gompijeno, monna a ipaakanyetse go reka palamonwana e e turang ya lenyalo. Kgotla ya rona ya Morafe e tswelletsa manyalo a mantle go nna setso sa gompijeno mo Namibia. Manyalo otlhe a tla kwadiswa mo dikantorong tsa molao.

##### **3.1.2 Tiro ya Boitseanape jo bo Tlhabologileng**

Kwa tshimologong lelapa lengwe le lengwe la Setswana le ne le itogela dikhai ka matlalo a diphologolo le dinku le dipodi. Ba ne ba itirela dijana, dikgabiso le dilemiso. Tiro ya banna ene ele go direla malapa a bone dikobo (mabutha) ka matlalo, dijana tsa magong, dilemiso tsa tshipi jaaka megoma, le ditlhabano jaaka marumo le dilepe. Basadi ba ne ba dira dipitsa ka mmopa, mme banna le basadi ba ne ba loga diroto. Tse dingwe tsa ditiro tse di ne di tlhaolegile tota. Banna ba bangwe ba nna ditswerere tsa go dira ditlhabano,

mme ba bangwe ba dira didiriso le dilemiso. Basadi ba bangwe ba tuma ka go dira dipitsa mme ba ruta bana ba bone go tswelera ka botsweretshi jo ele tiro ya lelapa.

Go thula tshipi le go bopa dipitsa ldinkgo ya nna tiro ya malapa a rileng, mo botswerere bo neng bo tsamaya ka malapa go tswa mo motsading go ya kwa ngwaneng masikasika. Go tshwanetse go tlhaloswa mo gore le ga batho ba bantsi ba ne ba kgona go dira dilo, ba bangwe ba simolotse go itsege ka ntlha ya boleng jwa dilo tsa bone.

Nako ga e ntse eya ba bantsi ba nna babetli ba kgosi, bathudi ba ditlhabano, balogi ba dikobo, j.j. Go tla ga Makgoa go tlile ga fetola tsotlhe tseowa tsa go dira dilo mo gae, ka batho ba bona dilepe, digarangwe, diaraka, difotšholo, maso, diforoko le dithipa, diboroto (poleite) le dijana, dibekere, dikopi le dipiring, dipitsa tsa maotwana, dikastrolo, dipane tsa go gadikela le tse dingwe tse dintsi. Mmogo le dijana tse dišwa tse ga tla didiriso tsa mefuta e mešwa le bothakga bo leriwa ke baruti.

Banna ba simolola go ithuta go betla ditafole, ditulo, le malao. Dilo tse diswa tse e ne ese tsa setso sa Batswana. Ka ntlha eowa, di itsege ka maina a Sekgoa, le ga ekeke a bidiwa ka Setswana, kgotsa a fetotswe ka mokgwa o a utlwalang ka Setswana, jaaka tafole (tafel/table); foroko (vurk/fork); setulo (stoel/chair); tlhobolo (gun from 'tlho! tlho! of g a muzzle loader), and the 'boloooo!' of the explosion); borikgwe (broek/pants); hempe (hemp/shirt); baki (baadjie/jacket); le a mangwe a mantsi.

Basadi ba bangwe ba bone bothakga ka go ithuta go roka dikhai, mme ba simolola go rekisa mesese ya Sekgoa. Le fa go ntse jalo, batho botlhe ba tswelera jalo ka tiro e tona ya Batswana, e leng bolemirui. Le gompijeno jaana, Motswana wa monna kgotsa wa mosadi a ka nna moruta-bana, moruti, mageseterata kgotsa moatlhodi, bolemirui bo nna karolo ya botshelo jwa bone.

### **3.2 Thusanyo mo Tirong**

Tiro ga e seke e nne ntsi mo malapeng a Batswana. Tiro e e neng e tshwanetse go fela ka bonako e ne e tlhaselwa ka kgakalo ka thuso ya ditsala. Fa go ne go na le tiro e tona jaaka go rema masimo a mašwa, go aga ntlo, go tlhagola masimo kgotsa go rulela ntlo, go ne go bidiwa letsema. Matsema a ne a duelwa ka dinama tsa go isa kwa malapeng, kgotsa ka dijana tse batho ba di tlhokang. Mong wa letsema o ne a apaya dijo le tsa go nwa go naya badiri.

Go ne go dirwa bojalwa jwa Setswana go naya badiri, mme bo ne bo nowa tiro ga e fedile. Batho ba ba senang ditsala go ba thusa, ba ne ba hira babangwe go ba direla, le fa ele go disa dikgomo kwa merakeng.

Batswana ba ba neng ba humile ba ne ba isa dikgomo tsa bone mo bathong ba ba neng ba tlhoka. Loruo lolo jalo ga twe lo ya mafisa, mme ba loruo lo leng mo go bone ba ka direla beng ba loruo tiro nngwe le nngwe. Ba bona masi, mme ba dirisa dikgomo go lema. Ngwaga le ngwaga ga o fela ba newa kgomo.

Batho ba bantsi ba ba direlang molao, ba dirisa thuso ya ba ba sa direng go ba tlhokomelela loruo, go ba remela masimo, go sega bojang le ditiro tse dingwe. Gompijeno batho ba newa tiro ya go agela baruta-bana le batlhankedi matlo kwa magaeng. Ditiro tse dingwe di dirwa ke ditswerere, ba ba newang tiro ke batho ba ba ikutlwang ka madi. Batho ba ba jaaka dingaka le bomadira-dikgagamatso ba newa tiro ya go foka metse, masaka le masimo le go thea.

### **3.3 Kgwebo le Kananyo**

Kananyo e ne edirisiwa ke bagwebi go ananya dithoto tse diswa le tse di sa itsegeng ka dikgomo, manaka a ditlou, matlalo, j.j.

Kwa tshimologong batho ba rona ba ne ba gweba mmogo. Dilemiso tsa tshipi, dipitsa, dikobo tsa matlalo, le dilo tse dingwe tse dintsi tse di neng di dirwa ke ditswerere, di ne di anangwa tsatsi le tsatsi. E bile go ne go gwebiwa ka motsoko, mabele le nama. Dilo tse go kile ga anyywa ka tsone nako e telele. Kwa bofelong botlhokwa jwa tsone jwa tlhomamiswa. Mogoma, lerumo, le selepe di ne di lekana le podi ka botlhokwa, mme pitsa ene e lekana le ga e tletse mabele ka theko. Go ne go se mafelo a a ageletsweng kgotsa mebaraka mo diphatlho di neng di rekiswa nyaaya. Motho mang le mang yo o neng a rekisa sengwe o ne a se bapatsa. Fa go ne go na le yo o se itumelelang, go ne go utlwanwa jalo ga fela.

Go ne go se na kgwebo mo gare ga merafe ga e se ka nako ya leuba, mo merafe e e mmotlana e neng e ya kwa go e e kgorang go reka dijo. Fa go ntse jalo go ne go letwa tetla ya kgosi pele, mme go ne go ntshiwa sebego go bona tetla e e ntseng jalo. Namane ya moroba, kgotsa sephutha sa motsoko kgotsa didiriso di ne di newa ele dibego go bulela barekisi dikgoro.

Le gompijeno jaana batho ba santse ba utlwana go ananya dilo mongwe a naya yo mongwe dipodi di le pedi gore yo mongwe a mo nee baesekelefitshe kgotsa tonki. Ba bangwe ba ka dira tironyana mme ba newa podi, tonki, kgotsa namane. Dikgomo di botlhokwa thata mo baruing ba rona mme di bona madi a le mantsi mo difantiseng.

Botshelo jwa segompijeno bo lerile mekgwa e mešwa ya kgwebo, e e neng e lerilwe ke bagwebi ba Makhowa. Go bua nnete, dijo tsa rona tsa setso gompijeno di rekisiwa mo mabenkeleng a sešwa. E re batho ba bangwe ba rona ba na le mabenkele a go rekisa dijo, ba bangwe ba bo ba tlhomile kgwebo ya ditshwantsho, mmimo, mabenkele a go jela, dipalangwa, le barerisani. Barekisi ba bagolo ba toropo ya Gobabis ba thusa go fa boramabenkele ba bantsi diphatlho tse ba di tlhaelang.

### **3.4 Madi ka Tiro**

Bontsi jwa batho ba rona ba ba dirang ba tsene mo Makokong a Badiri go rerisana le beng ba ditiro go bona madi a kaone. Kgotla ya rona ya Morafe e dirisanya le makoko ka ntlha ya batho ba rona. Ka madimabe tiro ga e bonwe mo kgaolong ya rona, mme ba ba

newang tiro ke ba ba nyenyane. Le fa go le jalo bontsi bo ya kwa Gobabis, Windhoek le ditoropo tse dingwe go senka tiro e e kaone.

### **3.5 Phalalo ka Tiro**

Mo nakong ya mebuso ya makoloni, go ne go tlhomilwe mokgwa wa go newa tiro ka dikonteraka tsa ba basweu, mme batho ba bantsho ba ne ba tlogela metse ya bone kwa magaeng go hudugela kwa ditoropong ga ba sena ba saena dikonteraka tsa go bereka nako e e tlhomilweng. Banna ba batsho ba ne ba olelwa jaaka diphologolo go tswa kwa magaeng go isiwa kgakala, go dirisiwa jaaka didiriso mo tirong ya tswelelopele ya babusi ba bašwa.

Ditlamo tsa tiro tse di jaaka WENELA di ne di tlama diketekete tsa banna ba batsho go dira kwa meepong, mo dipolaseng, le mo ditoropong tse dintsi tse di neng di tlhoka badiri ka bontsi. Go tlhokega ga banna kwa magaeng ga dira gore go nne le poelomorago e tona gone. Mme le gone ga dira gore banna ba bantsi ba simolole go tshela matshelo a le mabedi, ka go nna le lelapa kwa magaeng, le lelapa mo ditoropong. Fa ba boela magaeng, banna ba bantsi ba simolola go nyatsa botshelo jwa kwa magaeng ka gonne ba kgatlhwa ke sekgoa. Gompijeno bontsi jwa masika a bašwa bo leka go bona setso sa bone mo gare ga batsadi ba le bone ba sa itseng gore ba tswa kae. Kgotla ya rona ya Morafe e leka go baakanya mathata a.

### **3.6 Go Tsoma**

Ka ntlha ya mekgwa e mešwa ya tshireletso ya tlhago, go tsoma ga go dumelelwe mo magaeng a jaaka Aminuis le Corridor. Le gone ga go dumelelwe mo merakeng e jaaka Tjaka le Mbirisho, le mo dipolaseng tsotlhe tsa Kgotla ya Morafe. Batswana ba ba nang le dipolase ba na le tetla ya go tsoma mo dipolaseng tsa bone. Mo malatsing ano batho ba rona ba tlhotlheletswa go tlhoma ditshomarelo tsa tlhago ba dirisanya le Mmuso go bona madi a tswelelopele.

### **3.7 Madi a Setšhaba**

Pele ga go tla ga Makgoa, Kgosi e ne e newa lekgetho ke setšhaba e le mabele, dikgomo, manaka a ditlou, matlalo a dibata, didiriso, ditlhabano le mafofa a bontšhwe. Le gone Kgosi o ne a tsaya dikgomo tsotlhe tsa ntwaga tsa tse di amogilweng disenyi. Go oketsa o ne a tsaya le dikgomo tse di neng di tlhomiwa mo ditshekong tsa Kgotla. Ka ntlha e nngwe Kgosi one a naya baeng ba Kgotla dijo, le go romela balekane ba gagwe dimpho.

Dikgosana le batlhabani le bone ba ne ba newa dimpho tsa boitumelo mo go neng go tlhokega. Tse dingwe dikgomo di ne di newa bahumanegi mafisi gore ba bone maši le go lema ka tsone. Mo nakong ya leuba o ne a bula difala tsa gagwe go naya bahumanegi dijo.

Ka go goroga ga baruti dikomano le dintwa tsa fela.



## **4. Maemo mo gare ga Setšhaba sa Batswana ba Namibia**

Batho ba rona ba itsege ba lemoga ditlhopha di le tharo tsa maemo mo botshelong: Dikgosana – ke bana ba masika a dikgosi le dikgosana; Badintlha (batlhanka) – ke bana ba masika a batho ba sele ba ba amogetsweng bogologolo; Bafaladi (baagedi) – ke batho ba ba amogetsweng gone jaanong jana.

Mo go ditlhopha di le tharo tse, tsa ntlha tse pedi ke tsone tse go amogelwang gore ke setšhaba sa boammaaruri mme ba ka reediwa fa ba ntsha maikutlo le go naya dikgakololo. Tlhogo ya motse ke motho yo o botlhokwa thata ka gonne o emela kgosi.

Bogologolo banna ba ne ba kaetsa bogale jwa bone mo ntweng le ka go tsoma diphologolo tse di bogale, gore ba newe maemo kwa Kgotleng ya Morafe. Mme jaana le khumo e ne e naya motho maemo. Mo Batswaneng ba kwa Bophirima setlhopha sa balata balala se ne se le gone lwa ntlha. Masarwa le Bakgalagadi e ne e le balala ba Batswana bogologolo.

### **4.1 Mabaka a a tthomamisang Maemo, Ditshwanelo le Ditlamego tsa go nna Tokololo ya Morafe**

#### **4.1.1 Tokololo jwa morafe**

Go nna tokololo ya morafe go tthomamisiwa ke tsalo. Ka ntlha ya go aga le morafe nako e telele motsamai o ka amogelwa ke Kgotla ya Morafe go nna tokololo.

#### **4.1.2 Tsalano**

Ere jaaka Batswana ba tswa kgakala kwa tshimologong le yone, Batswana ba Namibia ba na le tlhokomelo thata mo ngwaong ya tsalano. Go bua nnete, tsalano e isiwa kwa godimo go feta merafe e mengwe mo Aferika, kgotsa mo merafeng ya kwa Yuropa. Pharologanyo mo gare ga losika e tthomilwe mo godimo ga bong, dingwaga le lotso, mme e dirisa lefoko le le rileng mo setlhopheng sengwe le sengwe.

Mafoko aowa a kgona go isiwa ka botlhale go ba losika le le kgakala gore mang le mang yo go kgonegang go itshwaraganya le ene ka tsalano, le fa a ka nna kgakala jang, a leriwe mo sakeng. Le fa ese batho ba lelapa le le lengwe, batho bao ba gasame mo morafeng, ebile gongwe kwantle ga morafe. Gantsi o ka fitlhela gore bontsi jwa batho mo morafeng ga se ba losika.

Go latelela mafoko a a diriswang mo gare ga batho ba ba tsalanang segautshwane ka madi. Mafoko a kwadilwe ka bobedi jwa thusanyo:

- (a) Motsadi:Ngwana
  - (i) Rre; Ntate; Mme
  - (ii) Ngwana = (m) mora; (m) moradi/morwadi.

- (b) Dithulaganyane
  - (i) Mosimane yo mogolo mo go nna (go bua mosimane) = mogolole, -lle (go bua mosetsanyana) = nkgonne, kgotsa mogol'wake
  - (ii) Mosimane yo monyenyanane mo go nna (go bua mosimane) = nnake; (go bua mosetsanyana) = nnake
  - (iii) Mosimane yo ke belegwang nae (go bua mosetsanyana) = kgaitsadiaka; Mosetsanyana yo ke belegwang nae (go bua mosimane) = kgaitsadiaka; kgantsadi'aka.
- (c) Bagolo le Ditlogolo
  - (i) Rra'go rre = rremogolo; Rra'go mme = rremogolo ntatemogolo
  - (ii) Mma'go rre = mmemogolo; Mma'go mme = mmemogolo; nkoko
  - (iii) Ngwana wa ngwan'a mosimane/mosetsanyana (go bua bagolo) = ngwan'a ngwana; ngwan'a ngwanake; setlogolo; motlogolo.
- (d) Bagabo Batsadi ba gago le Bana ba bone
  - (i) Mogolo'agwe rre = rremogolo; ntatemogolo; mmago rre/mmago mme = mmemogolo; nkoko
  - (ii) Monnawe rre = rrangwane k.g.r. rre yo monyenyanane;
  - (iii) Ngwana wa kgaitsadi (mosimane kgotsa mosimane) = ngwan'a ngwana; ngwan'angwanake; setlogolo/motlogolo
  - (iv) Kgaitad'ago rre = rakgadi
  - (v) Ngwan'a nnake = ngwan'a mogolole/ngwan'a nnake; ngwanaka;
  - (vi) Yo o belegwang le mme wa monna = malome
  - (vii) Ngwana wa kgaitsadi = setlogolo; motlogolo
  - (viii) Mogolo'agwe mme wa mosadi = mmemogolo
  - (ix) Monnawe mme wa mosadi = mmangwane, mmane
  - (x) Ngwana wa monnawe (go bua mme) = ngwan'a mogolole/nnake; ngwan'aka.
- (e) Bana ba Losika
  - (i) Ngwana wa ga mogol'agwe/monnawe rre = ngwan'rremogolo/rangwane
  - (ii) Ngwana wa ga mogol'agwe/monnawe mme = ngwan'ammemogolo/mmangwane
  - (iii) Ngwan'a malome; ngwan'a rakgadi = ntsala; motswala.
- (f) Bagatsa
  - (i) Monna wame; mogatsaka; mogatse
  - (ii) Mosadi wame: mogatsaka; mogatse.
- (g) Motsadi wa Mosadi: Monna wa Moradio
  - (i) Rrago mosadi; mmago mosadi = mogwagadi
  - (ii) Monna wa moradio = mogwe, mokgonyana.
- (h) Baba belegwang le mosadi: Monna wa mosadi yo o belegwang le ene
  - (i) Kgaitad'ago mosadi = Kgaitadi; Kgaitad'ago monna; Rrago mosadi; mogwe, molamo
  - (ii) Monna wa kgaitsadiaka = monna wa moradiaka; monnawe mme molamo
  - (iii) Monnawe mosadi wa gago = kgaitadi.

- (i) Ngwana wa bomonnawe mosadi: Monna wa rakgadi
  - (i) Ngwana wa ga kgaitsadi = (go bua mosadi); Ngwana wa ga mogolle
  - (ii) Monna wa kgaitsadia'go rre = kgaitsadia monna
  - (iii) Ntsalagwe mosadi = ntsalagwe kgaitsadi ngwan'a mogwagadi
  - (iv) Monna wa monnawe mme = monnawe mme wa mosadi; mogollagwe rre; mogatsa-mmemogolo/mogatsa-mmangwane.
- (j) Batsadi ba ga monna: Mosadi wa ga mora
  - (i) Rrago monna = rratsale/rratswale; mmago monna = mmatsale/Mmatswale
  - (ii) Mosadi wa mora = ngwetsi.
- (k) Baba belegwang le monna: Mosadi wa monnawe
  - (i) Monna yo o belegwang le monna wa gagwe = mogolle
  - (ii) Mosadi wa mogolle (go bua monna) = mogolle
  - (iii) Kgaityadiagwe monna = kgaitsadi; mogadibo, mogokane, bofije
  - (iv) Mosadi wa kgaitsadi (moradi wa mosadi) = kgaitdiamonna.
- (l) Ngwana wa monnawe mogatse wa monna: Mosadi wa malome
  - (i) Ngwana wa ga monnawe monna wag ago = ngwana wa mogolle
  - (ii) Mosadi wa ga monnawe rre = monnawe mme
  - (iii) Ngwana wa kgaitsadia monna = ngwan'a kgaitsadi
  - (iv) Mosadi wa kgaitsadia mme = mogoloago mosadi; mogatsa-malome.
- (m) Mogatsa-mogatsa nnake
  - (i) Mosadi wa kgaitsadia-mosadi = mogolwagwe mmago mosadi
  - (ii) Monna wa kgaitsadia-monna = mogolle monna wa moradi
  - (iii) Monna wa ngwana wa monnawe mosadi = mogolle
  - (iv) Monnawe mosadi wa mogolle wag a monna = molodikane.
- (n) Batsadi ba bana ba ba nyalaneng
  - (i) Batsadi bagabo mosadi = batsadi ba mosadi
  - (ii) Batsadi ba monna wa ga moradio = batsadi ba monna wame.

4.1.2.1 Mo setsong sa Setswana, tsalano ke motheo wa mekgwa e mentsi ya tshediso. Re tlhaloganye gore go gatelelwa setso se se tsamaisiwa ke banna.

- (a) Ditokololo tsa morafe, dikgoro, metse, j.j. di akangwa ka lotso lo lo kgonang go tlhotlhomiswa ka borre.
- (b) Maemo le loruo gantsi di tswa go rre go ya go morwa.
- (c) Fa monna a sena morwa, thoto ya gagwe e tla newa yo o latelelang wa monna mo lotsong, mme lo bidiwa losika/lesika.
- (d) Sefane sa monna gantsi ke leina le a le neilweng ke rraagwe kgotsa le tswa kwa go rraagwe-mogolo.
- (e) Dikgoro le malapa di newa maina a baeteledipele ba bogologolo.
- (f) Batho ba obamela bagologolo ba batsadi ba ba ileng ba ga borrabona.
- (g) Tsalano ke yone ye e diriswang fa go resisanwa ka ga tse di ganetswang le tse di rategang mo manyalong.

#### 4.1.3 Botshelo jwa malapa a a katolositsweng

Setso sa Batswana se tlhomile ditaelo le maikarabelo a rileng a banna le basadi go tswa mo letsatsing la bone la nyalo. Go gana go reetsa ditaelo tseowa tse di boitshepo go ka isa motho kwa kgotleng ya setso mme o ka lefiswa dikgomo kgotsa dinku kgotsa dipodi.

Ba losika ba tshwanetse go nna le botsalano le tsholo ya lerato mo go ba bangwe ba losika. Ba tshwanetse go thusana ka tiro, ka dimpho tsa dijo, diaparo le fa ba le mo mathateng a mefuta yotlhe. Ba losika ba tsaya boikarabelo jwa bana fa batsadi ba bone ba tlhokafala. Bana ba ga mogolole (mogolle) e nna ba gago fa batsadi ba bone ba tlhokafala. Monna o tshwanetse go thusa batsadi ba gagwe, bomonnawe, бага mmatsal'agwe le ba bangwe ba losika fa ba le mo mathateng.

Bana ba mpa ba kopana mmogo fa ba na le mathata go rerisana. Fa mongwe a kopa lebogo la mosetsanyana mo nyalong, ke bomalome le borakgadi mo malapeng otlhe ba ba tabogang go rulaganya, eseng batsadi. Ka ngwao ya Setswana ngwana ke wa setšhaba, eseng batsadi ba gagwe ba le bosi. Ngwana o rutwa go dumedisa botlhe ba ba godileng a re “dumela rre” kgotsa “dumela mme”. Banna le basadi ba tlhomphiwa ka go ya ka dingwaga tsa bone, mme bašwa ba lemoge dingwaga tsa batho fa ba ba dumedisa.

Ba losika ka mo bommagwe motho ba ka seka ba phegisana le ene mo dithotong le maemo ka go ya ka ditaelo tsa boswa le tatelano. Mosadi fa a nyetswe mme a supetsa gore ruri-ruri ke nkanyeng o amogelwa ke ba bogadi gore ke moradi wa bone. Gago dikhutsana mo Setswaneng. Bana ba newa ba losika go ba godisa le go ba tsenya sekolo. Ba godisiwa ka go tshwana, ba ja ka go tshwana le bana ba ba belegweng ke monna.

#### 4.1.4 Botsadi-ka-tsholo

Go nna tokololo ya morafe go naya motho tshireletso e e tletseng ya ditshwanelo tsa gagwe tsa botho le tsa molao tse di newang ke Kgotla ya Morafe le setšhaba. Go nna tokololo go naya motho yo o godileng tetla ya go tsaya kaolo mo dipolotiking le botshelo jwa setšhaba, go akaretsa le tsa melato le dikattholo k.g.r. Kgotla ga e dula, le go bua maikutlo a gagwe gone.

#### 4.1.5 Losika lwa Bogosi

“Losika lwa Lotlhare” ke lone lwa bogosi jwa Batswana Ba Namibia. Tlhamo ya puso e tlhomilwe mo godimo ga kgosi ka tsalo. Kgosi e tsamaisa Khuduthamaga le Kgotla, mme ba kopana nako le nako go buisanya ka tse di amang morafe, mme gape Kgotla ke yone e rulaganyang ka ga melao a mešwa ya setšhaba. Kgosi o tsamaisa Kgotla mme ke ena moemedi yo mogolo wa setšhaba sa gagwe fa go buisangwa le merafe e kgotsa ditšhaba.

#### **4.1.6 Bogolo**

Bogolo ga se selo se se amogelwang fela. Tlhogo ya lelapa ke ene yo o laolang ka botlalo mot lung ya gagwe. Kwa ntlheng ya tlolomolao, tlhogo ya lelapa o tshwanetse go rwala melato yotlhe e e diriwang ke ba lelapa la gagwe.

Mo gare ga dingwaga tsa lesome-nne le lesome-robapedi, basimane le basetsanyana ba tshwanetse go rutiwa le go katiswa ka tsa botshelo jwa melao ya setso le dingwao. Go tswa mo dingwageng di le masome-pedi-nngwe moagi yo o mmotlana o kgona go nna tokololo ya Kgotla ya Morafe.

#### **4.1.7 Bogwera/Bojale**

Kwa tshimologong Batswana ba ne ba dirisa bogwera le bojale mme basimane le basetsanyana ba ne ba isiwa kwa nageng go nna mo teng nako ya dikgwedi go ba dira banna le basadi. Gantsi bagolo ba ba kokoangwa ka go ya ka dingwaga tsa bone go dira mephato. Mephato o tlhangwa ke basadi kgotsa banna ba dingwaga tse di lekanang. Mephato e mešwa e ne e tlhongwa ke kgosi nako le nako mo dingwageng tse di supileng, ga mosimane kgotsa mosetsanyana mongwe le mongwe wa dingwaga di le lesomethataro go isa masomepedi ba le mo nakong ya go rupiswa.

Mephato ya basimane e ne e tshwanetse go rupiswa nako e e tletseng, le go nna nako ya go thatafatswa kwa nageng. Bojale bo diriwa mo gae ka go itshuba. Dingwao tse di sa latelelwa ke merafe e mengwe ya Batswana mo Aferika Borwa. Mephato e newa maina ke Kgosi ka nako ya go rupiswa. Morago mo botshelong jwa bone, ba ba tswang go rupiswa ba bidiwa ka maina a mephato ya bone, mme seowa ke tlotla e tona.

Maina a mephato a newa ka ditiro tse di diregang mo nakong ya go rupiswa sekai: Makanyane (dintja tsa mo nageng) ke ba mophato o o rupileng mo nakong ya makanyane a tlhasela leruo; Mayakapula: ba ba rupileng mo dipuleng tse ditona kgotsa mo dipuleng tsa Mariga; Tsie: ba ba ileng ka dinako tsa tsie e tona, j.j... Monna kgotsa mosadi yo o sa rupang ga a tlotliwe gore ke monna kgotsa mosadi. Batswana ba Namibia ga ba ile go rupa fela jalo nyaaya, mme jaana ngwao eowa ga e sa tlhole e diriwa ka ntlha ya mabaka a boitekanelo le dipolotiki. Batho ba rona ba ka tsena mo bookelong kae le kae mo nageng ya rona le go segwa kwa ntle le mathata. Mekgwa e mešwa ya go rupiswa e tshwanetse go nna ya boikarabelo jwa banna le basadi ba ba ipaakanyetsang tsa botshelo fa ba godile.

## **5. Lenyalo**

Go ya ka setso le ngwao ya Setswana lenyalo ke moetlo o o boitshepo mo setsong sa Batswana, mme bogologolo monna o ne a tshwanetse go kaetsa gore ke monna pele a tsaya mosadi a mo nyala. Magatlapa, magodu le ba ba neng bas a rupiswa ba ne ba sa amogelwe ke ope go ka nyala wa gagwe. Batswana ba Namibia:

- (a) ba amogela lenyalo ele moetlo o o tlišang diphetogo tse mo maemong le ditshwanelo tse dingwe tsa motho.
- (b) Lenyalo le oketsa maemo le go tsaya karolo mo botshelong jwa setšhaba.
- (c) Motho mang le mang yo o senkang go nyala mosadi o tshwanetse a ba a iherile sentle go tsaya boikarabelo.

## **5.1 Patlo**

- 5.1.1 Ba gabo monna ba tla jela ba gabo mosetsanyana kgotsa mosadi nala go kopa molelo kgotsa sego sa metsi, ba raya gore ba kopa ngwana wa bone mo nyalong.
- 5.1.2 Fa ele gore batsadi ba mosetsanyana/mosadi, mmogo le en aba a dumela, ba la amogela kopo.
- 5.1.3 Tumelano eowa ke ya go amogela gore malapa aowa a senka go tlhoma tsalano ya lenyalo, gore go tle go tlhomiwe lelapa.
- 5.1.4 Go na le mpho e e bidiwang pulamolomoe e newang ba gabo mosetsanyana/mosadi. E ka nna podi, nku, kgotsa madi.

## **5.2 Mokwele**

- 5.2.1 Fa dipuisanyo tsa patlo di tsamaile sentle go felela ka go ntsha mokwele. Kgato e botlhokwa ka gonne e kaetsa sentle gore go ipaakanyetswa go nyala.
- 5.2.2 Le fa go le jalo ga se gore mokwele o gapeletsa motho go nyala.
- 5.2.3 Peelelo e e ka fedisiwa kgotsa go kgaolwa kwa ntle ga go senka tefiso ya ditshenyegelo kgotsa kgaolo ya tumelano, ga ese fa malapa a mabedi aowa a itlamile ka lokwalo.
- 5.2.4 Se se ka lebiwang mo kgaolong e e ntseng jalo ke dilo tse di amang dithoto tse di neng di neanwe fa go buisanwa ka tsa nyalo. Dithoto tseowa di ka nna podi, madi, mapai, nku kgotsa kgomo, dilo tse di neng di neilwe ele boitlamo jwa gore re a nyala.

## **5.3 Malobolo/Bogadi**

### **5.3.1 Bokao le mo bo fitlhang**

- 5.3.1.1 Bogadi ke go tsaya thata ya mosadi ya go belega mo batsading ba gagwe le go e naya monna wa gagwe. Tsamaiso e e botlhokwa thata, ka gonne tlhaloganyo yotlhe ya Motswana ka ga bana le batsadi ba bone e tlhomilwe teng moo.
- 5.3.1.2 Ka bokhutshwane, go nna mmogo ga monna le mosadi ka setso sa Setswana ga go ka mo go amogelwang gore ke nyalo, ga ese fa go ntshiwa bogadi.
- 5.3.1.3 Ga go monna yo o ka senkang bana ba gagwe le mosadi ka lebaka lengwe le lengwe, ga ese fa ene le ba losika lwa gagwe ba dumela go ntsha bogadi ka mabaka a rileng.
- 5.3.1.4 Mme le gape, bana botlhe ba ba belegilweng ke monna yo o nyetseng, ga go molato gore monna yoo ke mang, ke bana ba monna yo o ntsheditseng mosadi yo o ba belegeng bogadi.

- 5.3.1.5 Bogadi bo ntshiwa ka ntlha ya gore mosadi o tla “go agela motse”. Ditiragalo tsotlhe tse di amang go ntshiwa ga bogadi di tswa mo tlhaloganyong e.

### **5.3.2 Maemo a Bogadi mo Molaong**

- 5.3.2.1 Dikgomo tsa bogadi di ka ntshiwa pele ga lenyalo, kgotsa ka letsatsi la lenyalo. Go ya ka ngwao, dikgomo tsa bogadi di ka nna tsa monyadi go fitlhelela nyalo e eme, mo dikgomo le dinamane tsa tsone, di ka nnang tsa batsadi ba monyadi.

### **5.3.3 Botona le Botlhokwa jwa Bogadi**

- 5.3.3.1 Bogadi ke dikgomo di ka nna some (10), kgotsa palo e e kwa godimo e okediwa ka bobedi-bobedi, gongwe go okediwa ka madi.
- 5.3.3.2 Gompijeno, bogadi bo akanngwa ka theko ya dikgomo kwa mmarakeng.
- 5.3.3.3 Go oketsa, thuto le yone jaanong e lerile diphetogo tse ditona tse di tlhotlheletsang ka mo batho ba buisanang ka ditumelelano tsa manyalo.
- 5.3.3.4 Batsadi ba segompijeno ba ba agileng mo ditoropong ba leba go rutege ga bana ba bone fa go buisanwa ka tsa manyalo a bana ba bone.
- 5.3.3.5 Mosetsanyana yo a neng a rometswe yunibesithing ga kake a nyalwa ka dikgongwana di le some.
- 5.3.3.6 Batsadi ba bangwe ba senka le ga ele masome a le mabedi a dikgomo tsa bogadi. Tse dingwe dikgetsi di tla atlholwa mo Kgotleng.

### **5.3.4 Go ntsha Bogadi**

- 5.3.4.1 Dikgomo tsotlhe tsa bogadi di tshwanetse go goroswa pele, kgotsa mo letsatsing la lenyalo.
- 5.3.4.2 Dikgomo tsa bogadi di amogelwa ke ditsala ka meduduetso, banna ba tilaka ka dilepe le marumo le melamu ekele ba mo ntweng.

## **5.4 Nyalano le ba Merafe**

- 5.4.1 Fa monna wa Motswana a nyala morafe o sele, mosadi yoo o nna Motswana mme o tshwanetse go ithuta setso sa batsadi ba bašwa ba gagwe.
- 5.4.2 Bana ba ba belegiwang mo nyalong eowa ba tsaya sefane sa ga rra’bo, eseng sa ga mma’bo.
- 5.4.3 Se se direga gape fa monna wa morafe o sele a nyala mosadi wa Motswana mme a aga mo Batswaneng, o tshwanetse go dirisa ngwao ya Setswana. Ga go motho yo o ka reng a nyala mosadi wa Motswana mme a agile le Batswana, a laolela gore ene o dirisa setso sa ga bone.

## **5.5 Tlhalo mo Lenyalong la Setso**

- 5.5.1 Tlhalo ga e ke e direga fela mo manyalong a setso mme fa e direga ga se batho ba bantsi ba ba utlwanng ka ga yone. Re tshwanetse go itse gore lenyalo la setso

le tlhongwa ka tumalano mo gare ga rraago monyadiwa kgotsa motlamedi, le monyadi, kgotsa rraagwe kgotsa motlamedi wa gagwe. Kgotla e ka tsena mo teng ka mabaka a rileng. Mme go tshwana fela le fa ele go tlhamolola nyalo. Go a kgonega gore puso ya setso e tsene mo kgetsing segolo ele go bona lebaka la dikomano le go leba gore go ka kgonega go dira kagisanyo mo gare ga bone, kgotsa go swetsa ka ga se se ka diregang ka kgetsi ka molao, fa ba kgaogana sekai, go busa bogadi, bana ba tsewa ke mang, j.j. Mme jaana puso ga e ka ke ya tsena kgetsi e ele go thusa go ba kgaoganya.

- 5.5.2 Mabaka a tlhalo a mantsi mme gantsi a botlhoko. Le fa go le jalo, mo setsong sa rona monna a ka tlhala mosadi wa gagwe:
- (a) Fa a opafetse a sa kgone go belega
  - (b) Fa a tsenya monna wa gagwe mo mathateng mo dinakong tsotlhe ka go lwa le baagisani
  - (c) Go tlhoka boikanyego
  - (d) Fa go twe o a loa
  - (e) Fa a le botswa a sa tlhokomele ntlo le monna wa gagwe
  - (f) Fa a sa tlhokomele bana ba gagwe ele mme yo maswe.
- 5.5.3 Mo setsong sa rona, dikgomo tsa bogadi di tshwanetse go boela gae fa batho ba tlhalana.
- 5.5.4 Mo dikgetsing tsotlhe tsa tlhalo, bobeding jwa bone monna le mosadi ba tla kgaogana thoto ya bone ka go lekana, ga ese fa mabaka a tlhalosa ka go sele.

## 5.6 Boswa

- 5.6.1 Bana botlhe ba ba belegetsweng mo nyalong kgotsa kwa ntle, ba tla kwalwa mo testamenteng ya batsadi ba bone.
- 5.6.2 Motlholagadi, fa ele gore mosadi o ne a nyetswe, le ene o tla kwalwa mo testamenteng ya monna wa gagwe.
- 5.6.3 Kgotla ya Morafe e tla tswetsa go kwalwa ga ditestamente mo morafeng wa rona, gore go seka ga nna le dintwa le matlhomolapelo ka ntlha ya boswa.
- 5.6.4 Fa monna/mosadi a tlhokafala a sa kwala testamente, Kgotla ya Morafe e tla dira jaana ka boswa jwa gagwe:
- (a) Kgotla e tla abela bana ba gagwe botlhe dithoto tsa gagwe, go simolola ka yo motona go isa go yo monyenyanane. Fa ele gore ba bangwe ba godile e bile ba a bereka, seowa se tla akangwa mo kabelong.
  - (b) Fa bana ba santse ba le banyenyane, Kgotla gongwe e ka atlhola ka gore ba newe yo mongwe wa losika yo o boikarabelo, mme le ene o tla begela kgosana ya gagwe mo dinakong tsotlhe gore bana ba gola jang.
  - (c) Fa ele gore moswi o ne a na le dikgomo, di tla newa batsadi ba gagwe fa ba santse ba tshela, go fitlhelela bana ba godile. Kgotla e tla nna le faele ya dikgomo tseowa.
  - (d) Ba losika ba ba amogelang boikarabelo jwa go tlhokomela dikhutsana, ba tla ikwadisa kwa Kgotleng. Ba losika baowa ba tla nna le boikarabelo jwa go isa bana baowa kwa sekolong, le go tlhokomela matshelo a bone.
- 5.6.5 Kgotla e tla tlhompha dikeletso tsa testamente ya motho yo o tlhokagetseng.



- 5.6.6 Ngwana wa motho wa mosimane ga a kgone go bona lefa la ga bagolo'agwe fa batsadi ba gagwe ba santsane ba tshela, ga ese fa lefa le le jalo le newa ka testamente.
- 5.6.7 Fa monna/mosadi a abela bana ba bangwe ba gagwe lefa mo testamente ya gagwe mme a tlogela ba bangwe, Kgotla e tla kgalema le go lwantsha testamente mo ntlheng ya bana botlhe ba ba tlogetsweng. Go tla senkwa tsela e ka yona go ka bonwang tharabololo e e siameng.

## **6. Go nna Kgosi**

- 6.1 Ka setso le dingwao tsa Batswana Kgosi kgotsa Kgosikgolo o newa bogosi ke rra'gwe, ke gore ke bogosi jwa go tsalelwa.
- 6.2 Balekgotla ba khuduthamaga, dikgosana le baeteledipele ba bangwe ba morafe ba a tlhophiwa kgotsa ba bewa ke kgosi mo maemong.
- 6.3 Ga go motho yo o leng motsamai kgotsa molala yo o ka bewang mo bogosing.
- 6.4 Ngwao e senka gore mora wa kgosi a tsholetse leina la ga rra'gwe go ya isagwe, selo se ngwana wa mosetsanyana a sa kgoneng go se dira.
- 6.5 Kgosi ya gompipjeno ya Batswana ba Namibia o neilwe leina la bagologolo. Ke setlogolo sa baeteledipele ba ntlha ba le bone ba neng ele ditlogolo tsa moeteledipele wa ntlha Morwe II, yo o kileng a tla go aga mo Namibia leruri ka 1885 a tswa kwa Kapa bokone.
- 6.6 Moeteledipele wa setso o bewa mo bogosing kgotsa Kgosikgolo fa a okamela magosi a mantsi a manyenyane.
- 6.7 Moeteledipele wa setso o tshwanetse go bona tlotla ya batho ba gagwe:
- (a) Ke moemedi le sebuabui sa setšhaba mo dilong tsotlhe tse di amang bophelo jwa bone
  - (b) O tshwanetse go busa batho ba gagwe ka tlotla mo dinakong tsotlhe
  - (c) Ga a tsamae bosigo, kgotsa go nna mo kgotleng bosigo
  - (d) O dumedisiwa ka leina la seane sa gagwe sa morafe k.g.r. Motlharo
  - (e) O tshwanetse go nna le maboko a gagwe a kwadilwe mo kgotleng. Maboko ao a tshwanetse go bokwa mo dinakong tsotlhe kgotla ga e kopana
  - (f) O ka bona lekgetho mo bathong ba gagwe botlhe
  - (g) O ka kopa setšhaba go mo agela ntlo
  - (h) O tshwanetse go tsamaya le kgosana gotlhe mo a yang gone
  - (i) O na le boikarabelo jwa go tsamaisa molao le taolo mo bathong ba gagwe.

## **6.8 Go bewa ga Kgosi ya Setswana mo Bogosing**

- 6.8.1 Fa bagolo ba setšhaba ba utlwana ka yo mošwa yo a ka tsayang bogosi mo basimaneng ba ntlo ya bogosi, go tla latelwa tsela e e ntseng jaana:
- (a) Bagolo ba setšhaba, baitse-ba-setso le batho ba losika lwa bogosi ba tla phuthega mo lefelong le le tlhomilweng, gantsi e tla nna kwa Mokalleng, (kwa Setlhareng; k.g.r. kwa makopanelong a setšhaba) kwa Aminuis, go rerisana go iketlilwe.

- (b) Bagolo le baitse-ba-setso ba tla simolola dikgang ka go umaka ka ga potlako e e tlhokegang go naya batho moeteledipele, kgosi ya bone, yo o tla ba gogang kwa pele.
- (c) Bagolo ba setšhaba ba tla supa ntlhopheng yo o tshwanelang yo o nang le maitseo a tshwanelang a a tlhokwang ke setšhaba.
- (d) Fa go na le kutlwano, ba losika jaaka borangwane le borakgadi ba ba leng gone, ba ya mo puo-sephiring. Ka mantswe a kwa tlase ba bua ka ga tse di botlhokwa tse di tshwanetseng go baakangwa.
- (e) Bagolo le dikgosana ba ya kwa metseng go rerisana le batho ba babone.
- (f) Ka nako ya ditherisano tsa kwa metseng, ba losika ba baakanya ntlhopheng yo o supilweng. Go ka tsaya lobaka lolo leele la dipuo tse di boteng tsa setso le dingwao tsa Setswana go rarabololwa kgetsi e. Ntlhopheng le ene jaanong o rutiwa setso le dingwao tse dintsi tse a sa di itseng.
- (g) Fa batho botlhe ba setse ba kgabagantse ditherisano le go sedimosetswa ka botlalo ka ga kang e, go tlhongwa letsatsi la go baya kgosi.

## 6.9 Tiro ya ba losika fa ba ipaakanyetsa go baya kgosi

- 6.9.1 Ba losika ba gabo motho yo a beiwang mo bogosing ba tshwanetse go rulaganya diretlo tse dintsi tsa setso tsa go forola le go phepafatsa motho, go mo thatafatsa mo moeng le mo tlhologanyong ya gagwe gore a kgone go ema senna fa pele ga batho ba gagwe.
- 6.9.2 Banna le basadi ba ba itseng dipheko ba tsaya karolo e tona mo nakong eowa, mme e le tiro e e ka tsayang malatsi kgotsa ditshipi.
- 6.9.3 Fa motho yo o bewang mo bogosing a nyetse, ene le mosadi wa gagwe ba ka isiwa go ja nala kwa kgosing e sele ya Setswana ka sephiri, go newa dikgakololo le botlhale jwa go busa setšhaba.

## 6.10 Moletlo wa go Baya Kgosi

- 6.10.1 Fa go rulagantswe mme dilo tsotlhe di siame le boraditso ba itumela gore ba tlhophile yo o tshwanelwang ke bogosi:
  - (a) Babegi ba tla taboga motse ka motse ba itsese setshaba ka ga modiro.
  - (b) Dikgosi tse dingwe di a lalediwa.
  - (c) Moleta-bogosi o bewa mo sephiring ke ba losika a sa bonwe ke ope go fitlhelela letsatsi la bofelo.
  - (d) Fa ele motho yo o nyetseng, o tla fitlha jalo le mosadi wa gagwe.
  - (e) Dikgomo tsa go tlhabela modiro di tla tlhophiwa ke dikgosana ka tlhokomelo e tona.
  - (f) Babaki ba ba itseng setso le dingwao le maboko a seane sa ga moleta-bogosi ba tla bidiwa ke bagolo le go reetswa.
  - (g) Mo tshiping ya go baya kgosi, go diriwa bojalwa jwa mabele a Setswana mme go bedisiwa ting.
  - (h) Mo letsatsing la bofelo pele ga modiro go tlhabiwa dikgomo mme nama e isiwa kwa mošate.

- (i) Go simolola meropa le mmmino go itsise setšhaba gore ke boammaaruri gore modiro o a simolola. Go tla opelwa, ga binwa bosigo jotlhe.
- (j) Ka phakela ya letsatsi la go tlhoma kgosi bagolo ba setšhaba ba tla dira moetlo wa setso mo sephiring, se ke go dira setlhabelo sa badimo.
- (k) Bojalwa, madi le motsoko di tla tshelwa gongwe mo go diriwang ditlhabelo tse di jalo mo kgotleng, bagolo ba bangwe ba bua le bagologolo ka go ba bitsa ka maina gore ba robalele kgosi yo mošwa.
- (l) Maina a bagale ba bogologolo, basadi le banna, ba ba ileng bogologolo a bidiwa, mme ba kopiwa go natlafatsa tlhogo e ntšhwa ya setšhaba, go mo naya lesego la khumo, le gore a puso ya gagwe e lere pula le dijo ka bontsi.
- (m) Setlhophsa sa bagolo jaanong se ya kwa setulong sa bogosi jwa setso, gone mo go tlang kgosi yo mošwa, mo tlung go apeswa letlalo la nkwe.
- (n) E tla re rangwan'agwe a mo apesang o tla bua mafoko a botlhale le a bogale mme a roga baloi le mewa e sa siamang:  
 “Eja! Rwala kobo ya borr'ago nkwe kgosi ya dibatana. Ke go baya mo bogosing jwa ga Morwe II, le botlhe ba ba ileng badimong.”
- (o) Kgosi yo mošwa o ntshetswa kwa ntle gore setšhaba se mmone. Ke meduduetso le meropa go senyegile ka boitumelo.  
 Kgosi o newa molamu wa bogosi:  
 “O ke molamu wa go sireletsa motse wa gago le bogosi jwa gago. Ga go yo o letleletsweng go o tshwara ga ese yo o ka go tlhatlamang mo bogosing.”
- (p) Kgosi jaanong o tla mo kgotleng a tsamaya le bagolo le ba losika go tla go boga ditswerere tsa mmmino, ba mephato, babaki ba setso, j.j.
- (q) Mobaki yo o itsegeng o tswela fa patlelong a letsa lonaka lwa tholo go itsese le ba ba leng kgakala gore kwa mošate go tlhomilwe kgosi.
- (r) Mme batho ba a khubama go dumedisana kgosi wa bone yo mošwa ka tlotla le boitumelo.
- (s) Modiro jaanong o a simolola; Tsotlhe tsa kwa sephiring jaanong di fedile mme baapei ba simolola tiro ya bone.
- (t) Basadi ba aba bojalwa mme batho ba tlala kwa kgotleng go baka kgosi le go e binela.
- (u) Kgosi le balalediwa ba tlotla batla boga ditswerere tsa mmmino ba setso.
- (v) Ba ba laleditsweng go tswa kwa merafeng e sele ba rola dimpho tsa bone.
- (w) Mogakolodi yo mogolo, eleng rangwan'atsona, o naya kgosi lerumo, sesupo sa motlhabani, go thatafatsa lebogo la gagwe mo pusong.  
 Go ka buiwa mafoko ano:  
 “Tsaya lerumo le. Go tswa gompjeno o nna motlhabani yo o tlabanelang setšhaba sa gago.”
- (x) O tsaya thebe e tona mo lebogong la molema:  
 “Motlhabani o ikanya thebe ya gagwe. A e nne yone e o ka phemelang setšhaba ka yone.”
- (y) Mmaki wa kgotla o bega kgosi ka go mo baka ka leboko la seane sa gagwe.

- (z) Jaanong o a retologa go leba setšhaba mme o re:  
“Bonang kgosi ya lona. Pula!”  
Batho botlhe ba re:  
“Pula! Pula! Pula!”

6.10.2 Kgosi jaanong o bua le setšhaba sa gagwe.

## 6.11 Bagakolodi ba Kgosi

- 6.11.1 Kgosi o na le lekgotla la bagakolodi ba kwa sephiring le le bidiwang khuduthamaga le le mo thusang go rulaganya merero ya setšhaba sa gagwe. O ikopanya le bone mo sephiring ka dikgang fela. Bagakolodi gongwe ba ka bidiwa go tla mo pitsong e e botlhokwa fa go tlhokega. Fa a seyo kgotla e a lwala, moja-lefa kgotsa mongwe wa losika o ka mo emela mo pitsong.
- 6.11.2 Ba bangwe ba bagakolodi (ditona, dikala tsa kgosi) ba:
- (a) Mo thusa go reetsa le go atlhola melato.
  - (b) Lebelela tsamaiso ya dikattholo gore e direge.
  - (c) Rwala melaetsa ya botlhokwa go isa kwa Mmusong.
  - (d) Dirisanya mmogo le Mokwaledi wa Kgotla ya Morafe go rulaganya meletlo ya go pegwa ga magosi a mašwa, ditona, manyalo, diphitlho, meletlo le mediro.

## 6.12 Maatla le mediro ya Kgosi

- 6.12.1 Bogologolo Magosi le magosana a ne a na le maatla a senang tekanyo mo godimo ga batho ba bone. Ba ne ba kgona go leleka motho mo setšhabeng a ele ruri, gongwe le go mmolaya, gantsi ka ntlha ya lefufa. Monna wa mohumi a na le basadi ba le bantsi ba bantle, o ne a nna mmaba wa kgosi, yo e neng ele ene komang-ka-nna. Botshelo jwa gompijeno, le kgololesego e e tshetlegilweng mo Molaotheong wa Namibia, ke tshireletsego ya gore Magosi le dikgosana ba buse batho ba bone ka tlotla le bosiamisi.
- 6.12.2 Mediro e metona ya Kgosi ke e:
- (a) Go dira melao ya setso ya batho ba gagwe, le go bona gore melao eowa ga e ganetsane le Molaotheo wa Repaboliki ya Namibia.
  - (b) Go bona mmu le go o abela batho ba gagwe.
  - (c) Go thusa ba ba ratang go nna balemirui go bona madi a kadimo le thuso nngwe le nngwe e ba e tlhokang.
  - (d) Go bona gore batho ba bone tiro ya diporojeke e e ba nayang botshelo goya-go-ile.
  - (e) Go tlhabolola basadi gore ba tswe mo bokgobeng jo ba leng mo go jone.
  - (f) Go bona gore bana botlhe ba ye kwa sekolong.
  - (g) Go tlhabolola boitekanelo mo gareng ga batho le go dirisanya le Lefapha la Boitekanelo mo dilong tsotlhe tsa boitekanelo.
  - (h) Go lwantsha borukhutlhi le go dira gore barukhutlhi ba leriwe mo kgotleng.

- (i) Go tlhotlheletsa bašwa gore ba lemoge botlhoko jwa AIDS mme ba fetole matshelo a bone.
- (j) Go dirisa maemo a gagwe go gapeletsa batho go nna le mekgwa e e siameng ya go nwa khadi le go kekologa botagwa.
- (k) Go dirisa maemo a gagwe go thusa bašwa go lwantsha tiriso ya diritibatsi.
- (l) Go dirisa Kgotla ya Morafe go godisa setso sa Ma-Aferika le Batswana.

**6.12.3 Kgosi o na le maatla:**

- (a) A go tshwara barukhutlhi le go ba neela kwa mapodising.
- (b) Go itlhomela mapodisi a gagwe a setso sa Kgotla, banna le basadi
- (c) Go tlhoma dikotlhao tsa melato e e ka atholwang ke Kgotla ya Setso.
- (d) Go rebola dikopo tsa makwalo a kgwebo mo mmung wa gagwe.
- (e) Go abela batho ba gagwe mmu ka tirisanyo le Mmuso wa Repaboliki ya Namibia.
- (f) Go athola melato ya manyalo, tlhalo le boswa.
- (g) Go dira dikutlwano le Magosi a mangwe ka dilo tsa Setso kgotsa tsa Dingwao.
- (h) Go rala melelwane ya dikgoro mo mmung wa gagwe.
- (i) Go naya baagi ba ba tshwanelang maemo jaaka. Tona e kgolo, Mobaki wa Motse, Mmegi wa Kgotla, kgosana, j.j.
- (j) Go baya le go ntsha Dikgosana mo maemong fa go tlhokega.

## **7. Dikgoro le dikarolo**

### **7.1 Tlhaloso**

- 7.1.1 Batswana ba Namibia ba agile mo dikgorong le dikarolo tse di sa tlhonyang ka go ya ka masika jaaka bogologolo.
- 7.1.2 Bogologolo kgoro e ne ele motse wa batho ba leina le le lengwe la mogologolo rra'bo, mme ba dira tiro e e rileng ya tsamaiso ya matshelo mme ba etelelwa ke kgosana. Gompijeno, mogakolodi ke motho yo o tlhophiwanang.
- 7.1.3 Dikgoro di farologana ka botona ka go ya ka palo ya batho ba ba agile mo motseng.
- 7.1.4 Kgotla ya Morafe ya Batswana ba Namibia e tlhomile gore Dikgosana tse ditona di itsiwe mme di beiwe mo maemong a go tsamaisa metse e e nang le batho ba bantsi mme le gone di thuse Kgosi kwa Kgotseng.
- 7.1.5 Bokgoni jwa bone le botlhale jwa go rwala boikarabelo di tla tlhomamisa maemo a bone mo setšhabeng.
- 7.1.6 Palo ya batho mo motseng e tla tlhomamisa maemo a moeteledipele wa setso.
- 7.1.7 Kgoro nngwe le nngwe e na le leina la yone, mme e na le kgotla e nyenyane e e ka thusang ba mo gae.
- 7.1.8 Melato e menyenyane e ka atholwa ke kgosana, mme o tla nna le lokwalo lwa melato, mefuta ya melato le ditifiso tsa yone.

- 7.1.9 Mo dikgorong batho ba bitsana “bagaetsho, Batshweneng, Ditshwene”, go tshwana le fa go tse ‘khomoreiti’.
- 7.1.10 Ditokololo tsa kgotla ya setso ya kgoro di a kopana fa go na le meletlo kgotsa dipitso tse di botlhokwa tsa setšhaba. Ba newa ditulo tse di kwa godimo mo dinakong tseowa, le fa ele gore ba nna ka go ya ka maemo a bone.
- 7.1.11 Dikgoro di na le boikarabelo jwa go tsewetsa setso mo kgorong ya bone, le go kokoanya madi a makgetho a a tlhomilweng ke Kgosi le Kgotla ya Morafe.
- 7.1.12 Dikgoro tse di latelelang di tla tlhongwa mme di tla nna le boikarabelo jo bo tletseng jwa setso:
  - (a) Aminuis
  - (b) Corridor
  - (c) Epukiro (Metsweding)
  - (d) Gobabis
  - (e) Tjaka
  - (f) Windhoek

## **7.2 Go tlhophiwa ga Dikgosana, Borametse le Bommametse**

- 7.2.1 Kgoro e tla kopana ka pitso e e biditsweng ke Kgosana e Tona ya kwa Kgotleng ya Kgosi.
- 7.2.2 Pitso e tla nna le kgetsi ele nngwe fela mo lenanetemeng: Go tlhophiwa ga Ramotse/Mmamotse wa Kgoro.
- 7.2.3 Batho ba tla bitsa maina a le mararo mo gare ga bone.
- 7.2.4 Pitso e tla emisiwa tshipi di le nne.
- 7.2.5 Mo nakong ya kemiso e, maina a mararo ao a bo ntlhopheng a tla tabogiswa mo dikgorong tsotlhe tsa morafe, mmogo le kwa Lefapheng, ele gore ba ba ganang ba kgone go ya kwa Kgotleng ya Kgosi go isa dingongorego tsa bone.
- 7.2.6 Morago ga ditshipi di le nne fa go se na kganetso mo maineng a mararo ao, kgoro e tswelapele ka pitso:
- 7.2.7 Ditlhopho di dirwa ka sephiri k.g.r. mang le mang yo o leng gone o tla kwala leina la motho yo o mo tlhophang mo pampitshaneng, mme o e tsenya mo bokosong ya ditlhopho e e diretsweng ditlhopho tseowa.
- 7.2.8 Mokwaledi wa Kgotla kgotsa kgosana yo o neilweng tiro ya go tsamaisa ditlhopho tseowa o tla bega sephetho sa ditlhopho.
- 7.2.9 Mogapi o tla nna Ramotse/Mmamotse yo mošwa wa kgoro, mme o tla emela kgoro mo meletlong yotlhe e e botlhokwa, meletlo le meketeko ya morafe, mmogo le dipitso le batlhankedi ba Mmuso.

## **7.3 Ditiro tsa Dikgosana**

- 7.3.1 Dikgosana di tla newa ditiro tse di jaana:
  - 7.3.1.1 Dikgosana di tla bona gore melao ya Kgotla e a tsamaisiwa.
  - 7.3.1.2 Dikgosana di tla thusa Kgosi ka tsanaiso setšhaba.
  - 7.3.1.3 Tona o tla tsaya maemo a Kgosi fa a seo.
  - 7.3.1.4 Dikgosana di tla tsena dipitso tsotlhe tsa Kgotla.

- 7.3.1.5 Dikgosana di tla begela setšhaba ka tsa Kgotla mo dinakong tsotlhe.
- 7.3.1.6 Dikgosana di tla thusa batho botlhe ka go lekana.
- 7.3.1.7 Dikgosana di tla tlhokomela botagwa le tiriso ya ditagi mo dikarolong tsa bone mo dinakong tsotlhe.
- 7.3.1.8 Dikgosana di tla tsamaya diphitlho tsa batho ba tsone.
- 7.3.1.9 Dikgosana di tla dira tiro ya tsone ka go ela nako tlhoko.
- 7.3.1.10 Dikgosana di tla thusa mapodisi mo tirong ya one ya go lwantsha tshenyo.
- 7.3.1.11 Dikgosana di tla tsamaya mediro yotlhe ya semmuso fa di lalediwa.

## **7.4 Maatla le Ditiro tsa Rramotse/Mmamotse**

### **7.4.1 Rramotse/Mmamotse o tla nna le maatla a:**

- (a) go atlhola melato e menyenyanane jaaka motho a utswitse podi mo karolong ya gagwe
- (b) go tsereganya mo gare ga batho ba ba sekang ka ga nyalo kgotsa boswa
- (c) go aba masimo mo kgaolong ya gagwe
- (d) go tshwara disenyi le go neela mapodisi
- (e) go tsamaisa molao le taelo mo karolong ya gagwe
- (f) go tsamaisa melao ya pabalelo ya tlhago mo karolong ya gagwe
- (g) go godisa setso sa batho ba gagwe mo dinakong tsotlhe
- (h) go rulaganya le go diragatsa kwadiso ya pelegi, batlhophi, j.j.
- (i) go thusa batlhankedi ba molao ba ba dirang mo karolong ya gagwe ka marobalo, le
- (j) go emela Kgosi mo mererong yotlhe ya setso mo kgorong ya gagwe.

### **7.4.2 Rramotse/Mmamotse o tla:**

- (a) tsamaya dipitso fa a kopilwe ke Kgosi, le go begela motse wa gagwe
- (b) tlhompha sephiri sa tiro ya gagwe
- (c) ila kgobelelo
- (d) ila go tagwa le go dirisa ditagi
- (e) emela Kgosi mo diphitlhong le mediro e mengwe e e botlhokwa
- (f) tlhokomela nako mo tirong
- (g) gana go rekiwa ka madi
- (h) bega diketsiso tsotlhe tsa morafe le tsa molao
- (i) thusa bababaledi ba tlhago mo karolong ya gagwe.

## **7.5 Go ntshiwa ga Kgosana kgotsa Rramotse/Mmamotse**

- 7.5.1 Fa setšhaba se dumela gore rramotse/mmamotse wa sone ga a dire tiro ya gagwe, kgotsa tiro ya gagwe e sa itumedise batho, go tla latelelwa tsamaiso jaana:
  - (a) Setšhaba se tla bitsa Kgosana e Tona ya Kgotalakgolo go tla go rarabolola mathata a bone.
  - (b) Tona ya Kgotalakgolo o tla isa kgetsi kwa Kgotalakgolong fa a sa bone tharabololo.
  - (c) Kgotla e tla bitsa pitso ya Khuduthamaga go rerisana ka ga kgetsi.

- (d) Fa kgosana kgotsa rramotse kgotsa mmamotse a bonwa molato wa go se tsamaisa ka tshiamo, o tla ntshiwa mo setulong sa gagwe gone foo.
- (e) Mosekisiwa o na le tshwanelo ya go bona thuso ya agente go mo thusa go dira boipiletso.

## **8. Loso le phitlho ya kgosi kgotsa tlhogo ya setso**

- 8.1 Ka go ya ka setso sa Setswana, Kgosi e fitlha ke ba losika, mo sephiring, mo tlung ya gagwe mme go le bosigo. Go ne go diriwa jalo gore baloi le bongaka ba seka ba utswa setopo, go se dira dipheko.
- 8.2 Gompijeno go sa dirwa jalo mo mafelong a mangwe a a santseng a dirisa ngwao ya Setswana ka botlalo. Mo botshelong jwa gompijeno jwa sekhowa, magosi a ka fitlha mo diphupung tsa motho mang le mang. Ba bangwe mo Aferika ba baya badisa go disa phupu ditshipi di le pedi go fitlhelela setopo se setse se senyegile mo mmung. Go sa ntse go na le meetlo e mentsi ya setso le mediro e e diriwang fa go fitlha kgosi. Gantsi go dirwa meetlo ya Setswana pele ere morago go latelelwe kereke le tsa sekhowa.
- 8.3 Ka bokhutshwane go ka dirwa jaana fa go fitlha kgosi:
  - (a) Fa kgosi e tlhokafala, go romiwa kgosana go itsise ba losika pele. Molaetsa ke “Tlhogo ele e re tlogetse”.
  - (b) Mogakolodi o mogolo yo o leng wa losika o tla bega mo radiong go itsise setšhaba, le go romela molaetso kwa go Tona ya Ditoropo.
  - (c) Dikgosana tsotlhe di tla kopana kwa Kgotleng.
  - (d) Mogakolodi o mogolo o tla tlhalosetsa dikgosana ka ga loso.
  - (e) Melaetsa e tla romelwa kwa merafeng e mengwe go ba itsise.
  - (f) Mmogo le ba losika batla rerisana go tlhoma letsatsi la phitlho.
  - (g) Kgomo e kgosi gongwe a neng a e rata, gongwe pholo kgotsa poo, e tla tlhophiwa go tlhabelwa phitlho.
  - (h) Batho ba tla kwa kgotleng ka malatsi go tshedisa.
  - (i) Tona ya Ditoropo o tla begelwa ka ga phitlho.
  - (j) Go tla nna le dipego mo radiong ka malatsi ka ga dithulaganyo tsa phitlho.
  - (k) Bosigo jwa pele ga phitlho, kgosi o tla nna mo tebelelong ya setšhaba.

### **8.4 Tebelelo le Phitlho ya Kgosi**

- 8.4.1 Kgosi o mo tebelelong mo Kgotleng.
- 8.4.2 Batlotlegi ba tla letlelelwa go baya mafoko a tshediso.
- 8.4.3 Batho ba rapela bosigo jotlhe.
- 8.4.4 Mo mosong, setopo se tswela mo kgotleng ya fa ntle go bogwa ke setšhaba.
- 8.4.5 Fa kgosi a ne a le Mokeresete, go tla simolola moetlo wa Sekeresete.
- 8.4.6 Wa losika o tla bua ka ga botshelo jwa ga moso.
- 8.4.7 Setopo se wela tsela se latelelwa ke ba losika, ba kgotla, le setšhaba kwa morago, go ya kwa diphupung.
- 8.4.8 Kwa diphupung go sa dirwa meetlo e mengwe ya tumelo.



- 8.4.9 Wa losika kgotsa tona o tla leboga setšhaba. Batho botlhe ba a tsamaya mme go sala ba losika le batlotlegi.
- 8.4.10 Go ka dirwa moetlo wa setso o monyenyanane.
- 8.4.11 Ba losika ba tla tsamaisa go tswalwa ga phuphu ke dikgosana.
- 8.4.12 Gongwe go ka nna le ngake yo o theyang lebitla fa go rulagantswe jalo.

## **8.5 Go pagolola (ntsha) Kgosi mo Bogosing**

- 8.5.1 Go na le mabaka a a ka dirang gore kgosi a we, kgotsa a leboge bogosi, kgotsa a ye go ikhutsa, kgotsa a ntshiwe mo bogosing. Mo dinakong tsotlhe thato ya setšhaba ke yone e buang.
- 8.5.2 E tla re fa kgosi e sa tlhole ele mo bogosing, ga tsena yo mongwe yo o mo tlhatlamang.
- 8.5.3 Fa go sena yo o mo tlhatlamang mo Tlung ya Bogosi, kgotsa gongwe yo o tlhatlamang o sa ntsane a le mmotlana, go ka bewa Motshwareledi mo setulong.
- 8.5.4 Motshwareledi ke mongwe wa losika yo o busanga tshwarelele go fitlha ga mong wa bogosi a godile mme a kgona go tsaya bogosi jwa gagwe.
- 8.5.5 Fa go sena yo o mo tshwarelelang, mongwe wa losika lo lo gaufi o tla tlhomiwa go nna Kgosi e e tshwareletseng, go fitlha mong wa bogosi a tla.
- 8.5.6 Go oketsa, Kgosi o ka ntshiwa mo bogosing fa  $\frac{2}{3}$  ya bontsi jwa Khuduthamaga ya Lotlhare bo utlwana ka tshwetso. Go baya kgosi molato gore o tlotse molao wa lefatshe la rona kgotsa ka ntlha ya maitsholomabe a gagwe a sa tlhole a kgona go tsamaisa setšhaba ka maitseo le tlotla ya kgosi ya Batswana ba Namibia.

## **8.6 Tsamaiso ya go pagolola Kgosi**

- 8.6.1 Ka tlwaelo, Kgosi e newa tlhompho e e mo tshwanelang.
- 8.6.2 Le gale fa setšhaba se bona gore o tshwanetse go pagololwa ka ntlha ya mabaka a utlwalang, tsamaiso e e siameng e tshwanetse go latelelwa.
- 8.6.3 Dikgato tse di latelang di ka tsewa:
  - (a) Khuduthamaga e tla bitsa pitso mo sephiring, go leka go gakolola Kgosi mo sephiring gore a reetse kgalemo ka molato wa gagwe.
  - (b) Khuduthamaga e ka kopa Kgosi e e leng tsala gautshwane go tla go thusa.
  - (c) Fa Kgosi a sa reetse, bagolo ba ka mo amoga didiriswa tsa bogosi k.g.r. Letlalo la Nkwe, Setulo sa bogosi le molamu wa bogosi.
  - (d) Bagolo ba tla itsise setšhaba phatlalatsa gore Kgosi o pagolotswe.
  - (e) Moeteledipele o mošwa o tla senkiwa mo tlung ya bogosi kgotsa mo losikeng lwa bogosi.

## **8.7 Tatelano mo Bogosing**

- 8.7.1 Ka tlwaelo Kgosi ya Morafe e latelelwa ke ngwana wa ntlha wa mosadi wa ntlha, yo e leng Mma-setšhaba. Bogadi jwa mosadi wa ntlha ke boikarabelo jwa setšhaba

sotlhe. Fa Kgosi e le mosadi, ngwana wa gagwe wa ntlha, e leng mosimane kgotsa mosetsana o tla mo tlhatlama.

- 8.7.2 Fa moja-boswa a santse a le monyenyanane go tsaya bogosi, rangwan'agwe o tshwanetse go nna Motshwareledi go fitlhelela kgosi a godile go tsaya bogosi jwa gagwe.
- 8.7.3 Fa ba Ntlo ya Losika lwa Bogosi ba palelwa ke go nna le moja-boswa yo o ka busang setšhaba, Bogosi bo a gatiwa, k.g.r. morafe ga o na kgosi.
- 8.7.4 Seowa se tla kaediwa ke Motshwareledi a sa tswale letlalo la nkwe fa magetleng a gagwe.
- 8.7.5 Go tla nna jalo go fitlhelela ba Ntlo ya Bogosi ba bona tharabololo ya mathata ao.

## **9. Kgotla ya setso**

### **9.1 Tlhaloso**

- 9.1.1 Le ke lone legae la Kgosi, ba losika lwa gagwe, Dikgosana, Ditona le batlhanka. Le ga ele gore ka setso motho yo o neng o na le boikarabelo mo matlhokong kwa kgotleng ene le ngaka, e rile go tla tlhabololo, Kgotla ya nna yone ya ntlha go bona bookela-matlhoko (tleliniki).
- 9.1.2 Go tswa kwa dingwageng tsa go kwadiwa ga hisitori, setšhaba sa Batswana se ne se kile sa tlhabolola mofuta wa melao le tolamo mo gare ga batho ba sone.
- 9.1.3 Mofuta oowa e ne ele wa go tlhoma sepodisi sa Kgotla sa banna le basadi, ba tiro ya bone e neng ele go tsamaisa ditaelo tsa Kgosi le dikgosana mo Kgotleng.
- 9.1.4 Mapodisi ao e ne ele baromiwa ba Kgotla, ba tsamaisa melaetsa go tswa mo Kgotleng go ya kwa dikgaolong tsotlhe, le ga ele kwa merafeng e mengwe.
- 9.1.5 Fa mosiamolodi a tlhokega go tla mo Kgotleng, mapodisi a Kgotla, a a bidiwang batlhanka, a ne a romiwa go ya go mo tsaya.
- 9.1.6 Bogologolo Kgotla ya setso ya Batswana e ne ele yone setulo sa puso le komang-ka-nna wa dilo tsotlhe tsa botshelo jwa batho. Gompijeno dilo tsotlhe tseowa di fetogile ka ntlha ya tlhabololo le demokerasi ya kwa Bophirima. Ditshwanelo tsa mongwe le mongwe di tlhoma tsamaiso ya molao le tolamo mme le yone Kgosi ga e kgone go tlama motho ka keetane mo setlhareng go mo otlhaya, jaaka go ne go dirwa bogologolo.
- 9.1.7 Gompijeno, banna le basadi ba nna mmogo mo Kgotleng.

### **9.2 Tlhamo ya Kgotla**

- 9.2.1 Kgosi, e leng moeteledipele wa setso, o tla nna tlhogo ya Kgotla.
- 9.2.2 Dikgosana tse ditlhophilweng e tlanna bagakolodi ba Kgosi.
- 9.2.3 Merero e metona e buiwa kwa sephiring le bagakolodi pele e isiwa kwa kgotleng.
- 9.2.4 Bagakolodi ba Kgosi ba dira lekgotla le le bediawang Khuduthamaga.
- 9.2.5 Ditshwetso tse di diriwang ke Kgotla mo melatong yotlhe ke tsa makgaola-kgang.

### **9.3 Maatla a Kgotla**

#### **9.3.1 Kgotla ya sešwa ena le maatla:**

- (a) Go tsweletsa bontle jwa setso sa Batswana le go godisa bana ka thupiso e e siameng.
- (b) Go tsweletsa tlhompho ya setso sa Batswana mo gare ga batho gore go nne le tswelelopele.
- (c) Go seka melato le go athola basiamolodi mo gare ga setšhaba sa Batswana.
- (d) Go otlhaya baba senyang.
- (e) Go tlhoma tefiso mo melatong e e atlholwang ke Kgotla.
- (f) Go pagolola Kgosi fa ele gore a sa tlhole a direla setšhaba sa gagwe.
- (g) Go dira dikutlwano tsa setso le merafe e mengwe.
- (h) Go tlhomela setšhaba lekgetho.

### **9.4 Mokwaledi wa Kgotla**

9.4.1 Kgotla, mo boikarabelong jo bo farologaneng mo setšhabeng, e tla baya motho yo o rutegileng go nna Mokwaledi wa setšhaba.

9.4.2 O tla nna le boikarabelo jo bo akaretsang mo teng le kwa ntle ga Kgotla.

### **9.5 Maatla le Boikarabelo jwa mokwaledi wa kgotla**

#### **9.5.1 Mokwaledi o tla:**

- (a) Kwala le go boloka dikwalo tsa tiro yotlhe ya Kgotla.
- (b) Tlaleletsa diforomo kapa go dira gore diforomo tse di amang tiro ya Kgotla di tlalelediwe.
- (c) Duella dikgosana.
- (d) Kwala ditefiso tse di tlhomilweng ke Kgotla le go di boloka.
- (e) Gatisa dikgang tse di botlhokwa tsa Kgotla mo dikuranteng.
- (f) Go kwala diphasalatso tsa Kgotla mo dikuranteng.
- (g) Go rulaganya dikgetsi tsa Kgotla tsa malatsi.
- (h) Go nna le lokwalo lwa loruo lotlhe lwa Kgotla lolo bonweng ka ditefiso.
- (i) Go nna le lenaneo la difaele (dilêêrê) tsa tiro yotlhe e e amang Kgotla.
- (j) Go rulaganya dipitso tsotlhe le Ditona tsa Mmuso, batlhankedi le merafe e mengwe.
- (k) Go kwala diphasalatso tsa go bapatsa diporojeke tse Kgotla e kopang thuso ya madi mo go tsone.
- (l) Go tlhoma dikomiti tse di tlhokomelang diporojeke tse di farologaneng tsa setšhaba.
- (m) Go rulaganyetsa setšhaba difantisi tsa loruo lwa bone, gore ba bone ditheko tse di siameng.
- (n) Go tlhokomela makwalo otlhe a Kgotla.
- (o) Go boloka lokwalo lwa bana botlhe ba ba belegwang mo setšhabeng.
- (p) Go itsise batho mo Kgotleng gore ba ipaakanye Kgosi o a tsena.

- (q) Go rulaganya meletlo ya go bewa ga Kgosi o mošwa, kgotsa Tona, le
- (r) Go boloka lekwalo la manyalo, tlhalo, diphitlho, meletlo le mediro.

## **9.6 Kwadiso le Tsamaiso ya Merero ya Selegae**

### **9.6.1 Kwadiso ya Pelegi**

- (a) Kgotla e tla boloka lokwalo lwa pelegi mo dinakong tsotlhe go itse gore a setšhaba se oketsega jang.
- (b) Masea a a sa belegelwang mo tliniking a tla begwa ka bonako kwa Kgotleng, gore ba kwadisiwe le go begiwa kwa lefapheng le le lebaneng ka bonako.
- (c) Go se bege pelegi ke molato o modiri wa one aka lefiswang Didola tsa Namibia di le masome a matlhano (N\$50), kgotsa ka mo Kgotla e ka bonang ka gone.
- (d) Ke tiro ya batsadi botlhe go bega pelegi ya lesea lwa bone.
- (e) Kgotla e tla boloka faele (leere) ya:
  - (i) Letsatsi, nako le lefelo la pelegi
  - (ii) Batsadi ba lesea
  - (iii) Leina la lesea
  - (iv) Leina la ga Kgosana le kgaolo mo lesea le belegetsweng gone
- (f) Tefo ya Didola tsa Namibia di le some (N\$10), kgotsa ka mo Kgotla e ka atholang ka gone, go kwadisa pelegi.
- (g) Fa ele gore pelegi e diregile mo lefelong la Mmuso jaaka tliniki kgotsa bookelo, batsadi ba tla bega kwa Kgotleng, mme Mokwaledi o tla kopa kopi ya kwadiso kwa lefelong leowa, go kwadisa mo makwalong a Kgotla.

### **9.6.2 Kwadiso ya Maso**

- (a) Kgotla ena le boikarabelo jwa go kwala masho otlhe a batho ba morafe wa yone.
- (b) O tla kwala masho ao mo difaeleng tsa Kgotla.
- (c) Masho a dikotsi mo mebileng, dipolao, peto, matlhoko, kgotsa fa motho o dirisa loruo kgotsa ka pelegi, mo mmung wa puso ya Kgotla, a tla begwa ka bonako go Mokwaledi, mme ene o tla itsise mapodisi ka bonako fa ele polao kgotsa kotsi.
- (d) Go palelwa ke go bega loso ka bonako ke molato o motona, mme modiri wa molato o tla lefisiwa lekgolo la Didola tsa Namibia (N\$100), kgotsa tefiso e e tlhonyang ke Kgotla nako le nako.

## **9.7 Ditebelelo tsa Setšhaba**

- 9.7.1 Ke tlwaelo le tiro e e amogelwang mo setsong go tshwara ditebelelo go lela le ba ba tlhokafetseng. Ditebelelo di direga fa go na le batho ba ba tlhokafetseng. Ditsala le ba losika ba kopana go lela.

- 9.7.2 Batho ba tla itsise kgosana fa go rulaganngwa tebelelo. Jaaka ditebelelo gantsi di tsamaisiwa ka tolamo, kgosana o tla begelwa fa go direga tse di sa siamang mo teng.

## **9.8 Diphitlho**

- 9.8.1 Tsamaiso ya diphitlho gantsi e mo matsogong a ba losika. Ba tla latelela molao wa lefatshe mo go tsotlhe tse di amang lokwalo lwa loso, lokwalo lwa kitsiso ya mapodisi, kgotsa pampiri nngwe le nngwe ya molao e e amang loso. Ke jaaka ele tlwaelo gore kgosana o tsamaya diphitlho, o tla itsisiwe ka nako ka diphitlho tsotlhe tse di rulagangwang gore a kgone go ema setšhaba nokeng.
- 9.8.2 Fa ele gore moswi o tlhokafetse ka ntlha ya mabaka a eseng a tlhago mme ga lemogwa gore motho mongwe ona le boikarabelo mo teng, Kgotla e tla atlhola gore ba losika lwa motho yoowa ba duele madi a phitlho eowa. Kgotla e ka atlhola gore madi a phitlho yotlhe kgotsa karolo ya one e duelwe ke yo o molato le ba losika lwa gagwe.
- 9.8.3 Fa ele phitlho ya kgosana, Kgosi le ene o tla nna gone.
- 9.8.4 Ga se gore Kgosi o tshwanetse go tsamaya diphitlho tsa batho ba gagwe, ka gonne o ka roma Mokwaledi wa Kgotla Kgotsa Tona go mo emela.

## **9.9 Letsatsi la Moletlo wa Setso**

- 9.9.1 Batswana ke batho ba ba ratang go nna mmogo mme ba dira meletlo ya setso, mediro ya mekgwa e mentsi ya go itumela mmogo. Dijo le bojalwa jwa Setswana di baakanyetswa dinako tsotlhe, go akaretse le dinako tse di tshwanang le go ntsha leseae mo tlung. Ka ele diopedi, meletlo yotlhe e tsamaiswa ka mmimo, go bina le go baka. Manyalo a kopanya batho ba ba tswang kgakala go tla go ja le go bina.
- 9.9.2 Batswana ba Namibia ba keteka moletlo wa setšhaba ngwaga le ngwaga go gakologelwa go tlhongwa ga Kgotla kwa Mokaleeng wa Aminuis bogologolo.
- 9.9.3 Moletlo o o ketekwa ka tshimologo ya Dikgakologo mo kgaolong ya bobedi ya ngwaga, mme o bidiwa Letsatsi La Morwe II. Ditlhare le dimela tse dingwe ga di simolola go tlhoga, go raya gore tlhago e a ntšhwafala. Batho ba rona le bone ba ntšhwafala ka go tlisa boitumelo go Morena Modimo ka mmimo le thapelo go leboga botshelo, boitekanelo le boitumelo.
- 9.9.4 Moletlo o tla nna kwa Mokaleeng kwa Aminuis.
- 9.9.5 Moletlo o ketekwa ka nako ya Dikgakologo mo kgwedding ya Lwetse/Diphalane ele Letsatsi la Ditebogo.
- 9.9.6 Kgotla ele esi ke yone e e nang le tshwanelo ya go rulaganya Moletlo wa Setso.
- 9.9.7 Dithulaganyo tsotlhe tsa go itumedisa setšhaba ka dijo, dino le mmimo, di tla dirwa ke Mokwaledi wa Kgotla.
- 9.9.8 Mokwaledi wa Kgotla o tla dira lenane la ditiragalo tsotlhe tsa letsatsi la Moletlo.
- 9.9.9 Tiro ya ntlha ya letsatsi e tla nna ya go ya kwa diphuphung tsa bagologolo.
- 9.9.10 Batho ba merafe e mengwe ba tla lalediwa go tla kwa Moletlong.

## **10. Molao le taolego le tsamaiso ya boatlhodi**

- 10.1 Batswana ba Namibia ba farologanya mo gare ga molao wa “molato” le molao wa “selegae” ka tiroso, eseng ka go akanya fela. Molao wa selegae o dirisanya le ditshwanelo tsa batho mo dikgetsing tse di tshwanang le maemo a motho, dithoto le ditlamano. O thusa go dirolola bomaswe fa ditshwanelo tseowa di tlotswe. Go tshwanetse ga lefisiwa mongwe go di baakanya.

### **10.2 Kgotla ya Setšhaba**

- 10.2.1 Ka go ya ka Molao wa Kgotla ya Setšhaba, Molao 10 wa 2003, Batlhankedi le Bakwaledi ba na le maikarabelo a le mabedi mo Tsamaisong ya Dikgotla Tsa Setšhaba.
- 10.2.2 Ditiro le maikarabelo otlhe a kwadilwe ka bophara mo molaong o amiwang mme o tshwanetse go reetswa mo dinakong tsotlhe.

### **10.3 Motlhankedi wa Kgotla ya Setšhaba**

- 10.3.1 Motlhankedi wa Kgotla ya Setšhaba ke ene Motlhankedi-moamogedi wa Kgotla ya Setšhaba, mme ofisi ya gagwe e na le ditiro le maikarabelo a a latelang:
- (a) O amogela makwalo otlhe
  - (b) O baya dikwalo tsotlhe tse di amogetsweng mo difaeleng
  - (c) O amogela madi le ditefiso tse e seng tsa madi
  - (d) O direla setšhaba difotokopi tsa dikwalo tsa bone ka tuelo
  - (e) O naya batho ditshupatefo (dikwitansi)
  - (f) O supa tiro yotlhe e e diregileng mo dikwalong tsa tsatsi lengwe le lengwe mo dibukeng tsotlhe
  - (g) O feleletsa dikwalo tsotlhe tse di setseng di baakantswe mme di letile go ya kwa Kgotleng
  - (h) O duela badiri ba Kgotla
  - (i) O tsaya lepalo la thoto yotlhe ya Kgotla
  - (j) O baakanya dibuka tsotlhe tsa lepalo tse di amiwang
  - (k) O isa madi kwa bankeng, le
  - (l) O tlhokomela dibuka tsotlhe tsa kwadiso le tse di laeditsweng ka tolamo e tona.

### **10.4 Melato ya Selegae**

- 10.4.1 Melato e metona ya Selegae e e itsiweng ke Kgotla ya Morafe ya Batswana ba Namibia:
- (a) Thaelo: Go raela ba bangwe go senya kgotsa go tsenya batho mo melatong
  - (b) Boaka: Go amana ga batho ba ba nyetseng etswe ba sa amane le basadi kgotsa banna ba bone

- (c) Bogodu: Go tsaya dithoto tsa mongwe kwantle ga tetla
- (d) Go roba Tlamano: Go roba tlamano ka boomo ele go utlwisa yo mongwe botlhoko
- (e) Tsenelo: Go tsenela batho ba bangwe mo ditshwanelong kgotsa dithotong tsa bone
- (f) Ditshenyegelo: Fa mosetsanyana a ithwadisitswe; le fa motho a sentse dilo tsa batho
- (g) Kgobololo: Go bua bobbe ka motho; go bua dilo tse di bosula ka maitseo a motho; go senya motho leina
- (h) Go Ima
- (i) Go ntsha Mpa
- (j) Tlhalo

## **10.5 Tsamaiso ya Ditshekiso**

- 10.5.1 Batho ba ba lwang ba leka go rarabolola ntwaga ya bone kwantle ga Kgotla ya bone ka bosi.
- 10.5.2 Fa ba sa utlwane yo o utlwisitsweng botlhoko o ya go tlaea kwa go rramotse/mmamotse.
- 10.5.3 Go tla tlhonga letsatsi la go reetsa kgetsi.
- 10.5.4 Rramotse wa kgoro o tshwanetse go dira patlisiso ya gagwe a iketlile.
- 10.5.5 Fa ele gore kgetsi ke e tona e tshwanetse go isiwa kwa Kgotleng ya Kgosi.
- 10.5.6 Mokwaledi wa Kgotla o tla kwala kgetsi mo lenaneng la dikgetsi tse di latelang, mme a naya ba ba lwang nako ya go ipakanya mmogo le basupi ba bone.
- 10.5.7 Botlhe ba ba amiwang ke kgetsi ba tla kopana maphakela kwa ga rramotse kgotsa kwa Kgotleng ya Kgosi.
- 10.5.8 Kgotla ya Morafe e bulwa ura ya robongwe (0900) mo mosong go simolola ka la Mosupulogo go isa lwa Botlhano.
- 10.5.9 Mosekisiwa o nna a lebile kgotla, moatlhodi le moseki.
- 10.5.10 Basupi le bone ba nna mo kgetsi go tswa fa e simolola, go utlwa kgetsi ka botlalo jwa yone.
- 10.5.11 Jaaka dikgetsi di sekwa mo phatlalatseng motho mongwe le mongwe yo o nang le dinwaga tse di fetileng somerobedi (18) ba tla letlelelwa go tsena mo kgotleng.
- 10.5.12 Ere jaaka dikgetsi tsotlhe di reediwa phatlalatsa, motho mang le mang o ka reetsa, ga e se bana.
- 10.5.13 Fa ele kgetsi e go leng bana mo go yone, e tla reediwa mo sephiring, mme go tla nna batho ba le bararo fela ba ba godileng.
- 10.5.14 Moatlhodi ga a sena go tlhalosa kgetsi, moseki, mme morago mosekisiwa, ba tla letlelelwa go bua.
- 10.5.15 Bobeding jwa bone ba ka bodiwa dipotso ke motho mang le mang yo o ratang go dira jalo.
- 10.5.16 Morago ba tla bodiwa dipotso ke ditokololo tsa Kgotla.
- 10.5.17 Kgetsi jaanong e buelwa puisano, yo o ratang go bua o a bua.

- 10.5.18 Botlhe ba ba ratang go botsa dipotso gape ba letlelelwa go dira jalo.
- 10.5.19 Bagakolodi ba moathodi le bone ba tsena mo dipuisanong jaanong go leba tse di siameng le tse di sa siamang tsa kgetsi.
- 10.5.20 Moathodi o akaretsa tse e leng dinnete tsa kgetsi, megopolo e e builweng, mme a ba a latlhela katlholo ya gagwe.
- 10.5.21 Fa kgetsi e e neng e reeditswe kwa kgorong e ipiletswa, e tla isiwa kwa Kgotleng ya Kgosi.
- 10.5.22 Gore kgetsi e tle e rarabololwe sentle, go tshwanetse ga nna le basupi.
- 10.5.23 Mo dikgetsing tsa selegae, moseki o letlelelwa go kopa kgotla se ene a se senkang ka tuelo.
- 10.5.24 Ka go ya ka ditshwanelo tsa kgetsi, tuelo e ka newa ka botlalo kgotsa karolo ya yone. Ditefiso di tlhongwa ka go ya ka dikatlholo.
- 10.5.25 Melato e metona e ka atholwa ke Kgotla ya Kgosi fela le mapodisi.
- 10.5.26 Kgotla ga e dule bofelong jwa tshipi kgotsa Malatsi a Boikhutso a Setšhaba.

## 10.6 Katlholo ya Melato le Ditefiso

### 10.6.1 Melato ya Selegae

#### 10.6.1.1 Thaelo

- (a) Motho o ka tlalelwa le go bewa molato mo go nngwe le nngwe ya tse di latelang:
  - (i) Fa o raela kgotsa wa sokasoka mosadi, mosetsanyana kgotsa ngwana go amana le ene.
  - (ii) Go sokasoka mongwe, gongwe ka kgapeletso kgotsa go tshosetsa, go dira molato.
  - (iii) Go fepisa mongwe ka katso gore a tseye karolo mo molatong, kgotsa go dumelela motho go dira molato
  - (iv) Go dirisa maemo a gago go direlwa dilo etswe lo dira molato gone foo.
- (b) Motho mang le mang yo o newang molato wa go raela mongwe go dira molato:
  - (i) O tla lefisiwa dikgomo di le tlhano (5) fa ele molato wa boaka
  - (ii) Dikgomo di le nne (4) fa ele mosetsanyana
  - (iii) O tla newa kotlhao ya dingwaga di le masomepedi mo kgolegelong fa ele ngwanyana
  - (iv) O tla lefisiwa dikgomo di le tharo (3) fa ele molato wa tshenyego
  - (v) Dikgomo di le tlhano (5) go dirisa leina la ga Kgosi kgotsa rramotse/mmamotse gore o bone thuso.

#### 10.6.1.2 Boaka

- (a) Ke fa batho ba le babedi ba ba nyetseng ba amana ka go dumelelana kwantle ga bagatse. Ke molato o motona mo molaong wa setso sa Setswana ka gonne go ka direga gore go nne bosula e bile le dilo tsa matlhomolapelo di ka direga. Batho ba ba tshwaregang ba amane ba ka bolaiwa ke bagatse, kgotsa ba golofala botshelo jwa bone botlhe. Ke ka



ntlha e banna ba dumelelwang go nyala basadi ba bantsi gore ba seka ba raelega go tsena mo mathateng a boaka. Fela botshelo jwa gompijeno ga bo dumelele dilo tse di ntseng jalo.

- (b) Motho mang le mang yo o bonwang molato wa boaka o tla: lefisiwa dikgomo di le tlhano (5) motho wa monna, mme di le tharo (3) motho wa mosadi. Di le nne (4) di tla newa moseki, ele nngwe e tla tsewa ke Kgotle.
- (c) Fa molato o ka diriwa gabedi, mosekiswa o tla lefisiwa dikgomo di le some (10) motho wa monna, mme motho wa mosadi di le tlhano (5). Dikgomo di le somepedi (12) di tla neelwa moseki, mme di le tharo di tla nna tsa Kgotle.

#### 10.6.1.3 Bogodu

- (a) E ka nna go utswa dilo tse ditona kgotsa tse dinyenyane. Dikgetsi tsotlhe tsa bogodu di tla atlholwa ka go ya ka botlhokwa jwa tsone ka madi, dithoto kgotsa loruo.
- (b) Motho mang le mang yo o newang molato wa go utswa dilo tsa batho, dintlhana, legae, dithoto, tsa legae, loruo, diaparo kgotsa dijo o tla:
  - (i) Duela moseki madi a a lekanang theko ya dithoto tse a di utswitseng, go fitlhelela madi a a dirang dikete di le some Didola tsa Namibia (N\$10,000).
  - (ii) Fa theko ya dithoto e le kwa godimo ga dikete di le some Didola tsa Namibia, mosekiswa o tla duela madi a a lekanang theko ya dithoto tse a di utswitseng, le lekgolo la Didola tsa Namibia (N\$100) mo go sekete sengwe le sengwe mo godimo ga sone. Go raya gore fa theko ya dithoto tse di utswitsweng ele dikete di le somepedi ya Didola tsa Namibia, kgotsa ele tsa theko ya sometlhano ya Didola tsa Namibia, o tla duela = N\$12,200, kgotsa N\$15,500, j.j.
  - (iii) Fa thoto e e utswitsweng ele loruo, legodu le tla lefisiwa dikgomo di le pedi mo go nngwe le nngwe e e utswitsweng, kgotsa dinku di le pedi kgotsa dipodi di le pedi mo go nngwe le nngwe e e utswitsweng. Go raya gore : kgomo e le nngwe e utswitswe = go lefiwa ka di le pedi (2); dikgomo di le pedi di utswitswe = go lefiwa ka di le nne (4); nkupodi ele nngwe e utswitswe = go lefiwa ka di le pedi (2); j.j.
- (c) Fa ele gore dithoto tse di utswitsweng di rekisitswe, Kgotle e tshwanetse go tlhotlhomisa gore di bone bokae le poelo mo thekisong eowa, mme moseki otlha tlhomelwa madi a a lekanang le ditshenyegelo tsotlhe tsa gagwe le poelo ya diperesente di le some (10%).
- (d) Motho o ka duela ka dithoto fa a sena madi a tefo.

#### 10.6.1.4 Go roba Tlamano

- (a) Go ka twe motho o robile tlamano fa a:
  - (i) Fa a palelwa go tsweletsa tumelano ya go dira tiro e rileng e gongwe e neng e duetswe pele kgotsa e a neng a saenne go e dira.

- (ii) Fa a palelwa go fetsa tiro e a e neilweng ka nako e go neng go dumelelwane ka yone.
- (iii) Fa a palelwa ke go dira tiro e go neng go dumelelwane mo gare ga batho ba le babedi ka tlamano ya bone.
- (iv) A fetola mogopolo ka tsholofetso e a e dirileng fa pele ga batho go naya motho tiro, kgotsa
- (v) Fa a solofetsa babereki mme morago a ba tlogela ba sena sejo le madi ba bolailwe ke tlala.

10.6.1.5 Mo manyalong

- (a) Motho yo o fetolang mogopolo ka tsholofetso e tona ya go nyala mongwe, segolo fa a kile a saena tumelano kgotsa a rwesa mosetsanyana palamonwana.
- (b) Monna yo a buang maaka gore o na le dikgomo tsa bogadi etswe a se-na fa ele.
- (c) Mosadi yo o saenang tsholofetso ya gore o tla nyalana le motho mme morago a nyalwe le o sele.

10.6.1.6 Go Tsenela

- (a) Go raya go tsena kgotsa go tla go nna mo legaeng la motho kwantle ga tetelele. Dikgomo tsa motho di ka tsena mo mmung wa yo mongwe, kgotsa motho o ka tsena mo mmung wa yo mongwe kwantle ga tetla. Basimane ga ba sa utlwe ba tle ba tsene mo go robalang basetsanyana mo sekolong, go ba tlabisa ditlhong.
- (b) Go ya ka ngwao ya Batswana, mabaka a tsenelo a ka direga fa motho a:
  - (i) Tsena mo ntlong ya motho go ya go utswa, mme a tshwarwa a ise a utswa.
  - (ii) Kgabaganya tshimo ya motho kwantle ga tetla. Ke moila o motona ka gonne go na le boloi mo teng.
  - (iii) Aga mo motseng wa motho ka tsholetso ya maaka.
- (c) Mang le mang yo o bonwang molato wa go tsenela mo legaeng la mongwe, o tla lefisiwa nku/podi e le nngwe, di le pedi, di le tharo, kgotsa di le nne, ka go ya ka botona jwa molato.

10.6.1.7 Ditshenyegelo

- (a) Ngwao ya Setswana e itse tshenyegelo ya go duela batsadi ba ba utlwisitsweng botlhoko ka go bona moradi wa bone a ithwadisitswe ke mosimane kgotsa monna.
- (b) Motsadi yo ngwana wa gagwe a ithwadisitsweng, le fa a ne a dumetse kamano eowa, o kgona go tla mo Kgotleng go tla go kopa tshenyegelo. Kopotuelo e e ntseng jalo e bidiwa go phimola dikeledi tsa motsadi yo gongwe ngwana wa gagwe a neng a tla nyalwa kwa pele.
- (c) Mang le mang yo o bewang molato wa go ithwadiisa moradi wa motho kwantle ga nyalo, o tla lefisiwa dikgomo di le pedi (2).

10.6.1.8 Kgobololo

- (a) Go raya go bua bobbe ka ga motho, kgotsa go senya maitseo a motho. Dikai tse di itsegegeng ke tse:
  - (i) Go pateletsa mongwe ka boloi

- (ii) Mosetsanyana a supa monna o sele gore ke ene yo a mo ithwadisitseng
- (iii) Go tlotlolola bagolo, le
- (iv) Go rogakana.
- (b) Molato wa kgobololo o direga fa:
  - (i) Motho yo o utlwileng botlhoko a ya kwa Kgotleng go kopa gore leina la gagwe le phepadiwe
  - (ii) Motho yo o utlwileng botlhoko a ya kwa go ramotse /mmamotse kgotsa mang le mang yo o leng mogolo mo bathong go isa kgetsi ya gagwe kwa Kgotleng, kgotsa
  - (iii) Baagi ba kopana go rarabolola kgetsi selegae.
- (c) Mang le mang yo o bewang molato wa go senya motho leina o tla lefisiwa dinku di le pedi kgotsa dipodi di le pedi.

10.6.1.9 Go ima

- (a) Batsadi ba mosetsanyana yo imileng ba na le tshwanelo ya go rarabolola mathata a bone le ba gabo mosimane/monna yo o boikarabelo.
- (b) Fa batsadi ba mosetsanyana ba sa bone boitumelo ba ka bega kgetsi mo go Rramotse.
- (c) Batsadi ba mosetsanyana yo o imisitsweng ba tshwanetse go tlhoma madi a a kanaka makgolo a matlhano a Didola tsa Namibia (N\$500), mme madi ao ba tla a neela mosetsanyana go a bolokela go reka tse di ka tlhokwang ke ngwana wa gagwe fa a belegwa.
- (d) Kgotla e tla lefisa monna yo o imisitseng mosetsanyana dikgomo di le tharo fa a ima lwantlha, mme eowa ke tigalebele, mme di tla newa batsadi ba mosetsanyana go nna tsa bone.
- (e) Fa monna yo a imisitseng mosetsanyana a sena dikgomo, o tla ntsha madi a kanaka dikete di le thataro tsa Didola tsa Namibia (N\$6,000).
- (f) Fa ditshenyegelo di sa sekelwe kimo ya ntlha, batsadi ba tla senka dikgomo di le pedi kgotsa dikete di le nne tsa Didola tsa Namibia (N\$4,000).
- (g) Fa monna morago a nyala mosetsanyana, dikgomo tse di setseng di lefilwe tsa tshenyegelo di tla balelelwa mo bogading.

10.6.1.10 Go ntsha mpa

- (a) Ka setso le ngwao ya Batswana go ntsha mpa ke moila o motona mme ga go yo o ka dumelang ka mabaka afe kgotsa afe. Bana ba tsewa ele mpho e tona mo setšhabeng, mme malapa a a senang bana ga a ka a tshela sentle.
- (b) Molato wa go ntsha mpa o tla newa kotlhao e tona mo Kgotleng ya Morafe fa e dirilwe kwa ntle ga katlanegiso ya ngaka yo o rutegileng, mme ele ka mabaka a e neng ele a go thusa motho go tshela. Kgotla ya Batswana ba Namibia e amogela tshwanelo ya bophelo. Go ntsha dimpa le go latlha bana ga di amogelwe.
- (c) Motho yo a bewang molato wa gore o ntshitse mpa o tla lefiswa dikgomo di le pedi (2), kgotsa dikete dile tlhano tsa Didola tsa Namibia (N\$5,000).

10.6.1.11 Tlhalo

- (a) Mo setsong sa Batswana tlhalo ga se selo se se diregang ka malatsi. Go tswa kwa bogologolong batho ba ba neng ba nyalane ba ne ba nna mmogo go ya losong, segolo fa go ne go belegilwe bana. E ne ele ka go tla ga setso sa kwa bophirima se se tllileng le mofuta wa go dira o o bidiwang tiro ya tlamano, e e neng e kgaoganya banna le malapa a bone nako e telele. Batho ba rona ba simolola go otlala malapa a le mabedi, lelapa la mo toropong le la kwa magaeng. Morago banna ba simolola go tlhala basadi ka mabaka a a itlhalosang. Gompijeno tlhalo e atile jaaka sehuba mo gare ga batho ba rona, selo se se senyang botshelo.
- (b) Mang le mang yo o senkang tlhalo mme a tla mo pele ga Kgotla ya Morafe o tla:
  - (i) Supa gore o setse a lekile selegae go thusa nyalo ya gagwe gore e seka ya senyega.
  - (ii) Netefatsa mo Kgotleng ya Morafe gore ga go tharabololo, kwa ntle ga go tlhamolola nyalo.

## 11. Molao wa Tshenyo

- 11.1 Molao wa Tshenyo o tsaya ditiro tse dingwe gore ke melato fa di tsewa ke Batswana gore di maswe mme di senka kotlha e tona.
- 11.2 Lwa ntlha, melato e metona ya tshenyo ene e akaretsa e e latelang:
  - (a) Boloi
  - (b) Kamano mo lelapeng
  - (c) Polao ya motho
  - (d) Peteletso
  - (e) Kgobatso
  - (f) Polao
  - (g) Go bolaya
  - (h) Phamolo
  - (i) Go tlola melao yotlhe e e tlhomilweng ke Kgosi.

### 11.3 Boloi

Boloi jo gantsi bo tsamaya mmogo le polao ya moetlo go bona dikarolo tsa setopo go dira dipheko. Batho ba bangwe mo setšhabeng ba akangwa gore ba na le maatla a matona a go lere bolelo, dingalo, botlhoko le loso, bohumanegi le tlala mo bathong ba ba sa itseng sepe. Batho fa ba utlwa botlhoko mme ba rata go ipusolosetsa, gantsi ba tabogela kwa go ba go tweng ba itse dipheko. Dingakatseo, di tla newa podi kgotsa nku kgotsa madi, ba ka dirisa thata ya bone ya dipheko go loa kgotsa go bolaya mmaba wa ba ba utlwisitsweng botlhoko.

- 11.3.1 Ba tlhakanya ditlhare, melemo, dikarolonyana tsa dinoga le diphologolo tsa mo nageng, gongwe le dikarolo tsa ditopo tsa batho, go ithatafatsa. “Ke tla go loa” ke puo e e dirisiwang go tshosetsa ba ba tshwanetseng go otlhawa. Mo melatong e mengwe batho ba ba dirileng melato e metona ba ya kwa bongake ba go tweng ba tla dira setlhabelo sa motho go bona dikarolo tse di dirisiwang mo diphekong go thatafatsa ba ba yang fa pele ga moatlhodi gore melato ya bone e atlholwe ka bokoa ba ntshiwe fela. Jaaka go le thata go supa molato wa boloi, Kgotla ya Morafe ga e kgone go otlhaya motho fela ka gonne ba bangwe ba mo tlalea.
- 11.3.2 Motho yo o ntseng jalo o tla ntsha dipheko le dilo tsa gagwe tsa go loa mo Kgotleng k.g.r. methuso, melemo, dikarolo tsa ditopo, leokotsane, mafura le lookwane, eleng dilo tse di tsamayang mmogo le tiro e.
- 11.3.3 Fa dilo tse di ntshiwa Kgotla e tla fa taelo gore ditiro tsa mosekisiwa di tlhotlhomiswe. Go tla bidiwa basupi.
- 11.3.4 Mesepele ya mosekisiwa e tla ganediwa (a nne mo tlung ya gagwe) go fitlhelela tlhotlhomiso e fedile.
- 11.3.5 Bopaki jwa ga mosekisiwa bo tla bolokwa mo Kgotleng go fitlhelela tlhotlhomiso e fedile.
- 11.3.6 Go laela botlhe ba ba tlaleileng gore ba tlise bosupi jwa ditiro tsa gore o a loa.
- 11.3.7 Basupi ba laelwe go fa ditiro tse ba di itseng tse di tlhalosang ka botlalo gore ka Setswana fa go twe go loa ga bo go teiwang.
- 11.3.8 Mang le mang yo o bewang molato ka boloi o tla lefisiwa dikgomo di le tlhano.
- 11.3.9 Mang le mang yo o bewang molato wa boloi mme a tshwarwa ka dirwe tsa motho o tla isiwa kwa mapodising a Namibia go mo otlhaya.

#### **11.4 Kamano mo lelapeng**

- 11.4.1 Molato wa kamano mo lelapeng o raya fa batho ba le bangwe ba amana mo lelapeng, bosula ele monna a ama moradie. Melato e entseng jalo e simolotse bogologolo, mme e thata go e lemoga. Fa yo o utlwang botlhoko a sa bolelele mongwe ka ga se se diregang, ga go ope yo o ka lemogang melato ya kamano mo lelapeng.
- 11.4.2 Mo malatsing ano mo Namibia, go begwa ka malatsi ka ga bagolo ba ba beteletseng masea kgotsa banyana go twe ba leka go ntsha botlhoko jwa HIV/AIDS, ka gonne ba gakolotswe ke bongake go dira jalo. Bontsi jwa melato eowa, gongwe yotlhe fela, e direga fa mme le rre ba ile tirong mme go setse malome kgotsa rangwane yo o sa direng, a lebile fela banyana mo lelapeng. Ngwao ya Setswana e tsaya kamano mo lelapeng fela jaaka tiro ya diphologolo kgotsa ya batho ba ba jang ba bangwe, mme ka setso o ne a tlamiwa mme a itewa ke banna botlhoko, mme morago ga foo a lelekiwa mo setshabeng go aga kwa dithabeng.
- 11.4.3 Yo o ka bewang molato wa kamano mo lelapeng, o tla lefisiwa dikgomo di le some (10), le go newa hofa ya molao go isiwa kwa kgolegelong dingwaga di le dintsi.

### 11.5 Polao ka phoso

- 11.5.1 Go tewa go bolaya motho ka phoso o sa akanya go dira jalo kgotsa ka botlhaswa. Molato o o ntseng jaana, o direga gantsi fa batho ba le mo tirong, kgotsa ka dikotsi tsa dikoloi mo mebileng. Dikgetsi tsa Polao ka Phoso, jaaka polao, di ka atholwa ke Hofo e Kgolo fela, mme le fa go le jalo Kgotla ya Morafe ya Batswana le yone e na le karolo mo kgetsing e.
- 11.5.2 Mang le mang yo o bonwang molato wa polao ka phoso, o tla leriwa mo pele ga Kgotla ya Morafe morago ga kgetsi ya gagwe e digetswe mo Hofong e Kgolo, mo molato o ka boelediawang.
- 11.5.3 Mang le mang yo o bewang molato wa botlhaswa; yo o sa dirisang tlhokomelo le faele mme go dirile gore motho a tlhokafale, go lebiwa gore a moswi e ne ele ene yo o ikantsweng mo lelapeng:
- 11.5.4 Otlala lefisiwa dikgomo di le some (10) tse di newang ba gabo moswi, go ba gomotsa tshenyegelo ya bone. Kgotla ya Morafe e tla tsaya di le pedi go thusa tiro ya yone.

### 11.6 Petelelo

- 11.6.1 Kamano ka kgapeletso kgotsa ka go tsietsa mosadi kgotsa monna ke petelelo. Fa go le kgapeletso ya go tsenya lepele la monna mo teng ga mapele a mosadi kwa ntle ga kutlwano, petelelo e diregile. Go na le pharologanyo fa motho yo o betelelwang ele ngwana k.g.r. motho yoowa ale mo tlase ga dingwaga di le some-robodi. Mo melatong e e ntseng jalo Kgotla ya Morafe ga e akanye le ga ele gore moseki o ka ba a dumetse ka gonne mo kgetsing e dingwaga tsa moseki ke tsone di lebiwang.
- 11.6.2 Dingwaga tsa bo 1990 di bone tiragalo ya petelelo e e neng e sa itsiwe le mo botshelong jwa hisetori ya setso sa rona mo lefatsheng la rona – petelelo ya bana. Botlhoko jwa HIV/AIDS bo lerile tumelo e ntšhwa mo molemong wa yone – petelelo ya masea go fodisa botlhoko. Mo gare ga dingwaga di se kae, ba ba godileng ba ne ba betelela masea ka bontsi mo nageng yotlhe go fodisa botlhoko jwa Aids.
- 11.6.3 Kgotla ya Morafe wa Batswana ba Namibia e tsaya petelelo gore ke molato o motona ruri, a mmetelelwa ke mosadi, mosetsanyana, lesea kgotsa mosimane. Se se tona go tshwana ke petelelo ya monna ke monna yo mongwe, ka gonne ngwao ya rona e nyenya ditiro tse di gakgamatsang tse di tshwanang le banna ba amana, go ratana ka bong le mekgwanyana e mentsi e e lebegang ekete re batho ba ba huditsweng.
- 11.6.4 Mang le mang yo o bewang molato wa petelelo mo Kgotleng ya Morafe o tla re pele kgotsa morago ga kotlhayo ya gagwe mo kgolegong:
  - (a) A lefisiwa dikgomo di le tlhano (5) fa a ne a beteletse mosadi kgotsa monna.
  - (b) A lefisiwa dikgomo di le supa (7) fa ele gore o beteletse mosetsanyana wa dingwaga di le somethataro.

- (c) A lefisiwa dikgomo di le some (10) le go lelekiwa mo gare ga morafe fa ele gore o beteletse losea kgotsa ngwana.
- 11.6.5 Dikgetsi tse di feteletseng tsa petelelo di tla neelwa Mapodisi a Namibia.
- 11.6.6 Mo melatong yotlhe ya petelelo mosekisiwa o tla neelwa dihofo tsa molao go mo romela kgolegong.

## **11.7 Kgobatso**

- 11.7.1 Melato ya kgobatso e tla ka mekgwa ele mentsi, go le ka mo molato o diregileng ka gone. Go banna ba ba itayang basadi ba bone ka mabaka a le mantsi, mme basadi baowa ba tlaea kwa kgotleng. Melato e mengwe ya kgobatso e nna jaana: tlhaselo ka dibetsa jaaka dithobane, melamu, dilepe kgotsa ditlhobolo, tse di dirang dintho tse di tshabisang.
- 11.7.2 Kgobatso e ka arogangwa jaana:
  - (a) Kgobatso e nyenyane – ke ga motho a sa utlwiwiwa botlhoko thata, kgotsa a na le dintho tse dinyenyane.
  - (b) Kgobatso e tona – kgotsa kgobatso ya go rata go ntsha motho dintho tse ditona – fa dintho tsa motho di dira gore a romelwe kwa bookelong go rokwa.
- 11.7.3 Mang le mang yo o bewang molato wa kgobatso e nyenyane o tla lefisiwa podi kgotsa lekgolo la Didola tsa Namibia (N\$500) fa ele molato wa ntlha.
- 11.7.4 Fa ele gore go ne go iteilwe mosadi, mme mosekisiwa ele monna, mosekisiwa o tla lefisiwa dipodi di le tharo, mme ele nngwe e tla tsewa ke kgotla.
- 11.7.5 Mang le mang yo o bewang molato wa kgobatso e tona, O tla lefisiwa dikgomo di le tharo fa ele molato wa ntlha, Kgomo ele nngwe ke ya kgotla.
- 11.7.6 Motho yo o bewang molato wa kgobatso ya go rata go ntsha motho dintho tse ditona, o tla lefisiwa dikgomo di le tlhano lwa ntlha.

## **11.8 Polao**

- 11.8.1 Ke fa motho a bolaya yo mongwe, go ya go thulaganyo ya go bolaya motho ka bogale. Bogologolo motho yo a neng a bolaile motho le ene one a bolawa, go dirisa puseletso ya leitlho ka leitlho. E rile fa go tla Sekeresete, batho ba simolola go rutwa gore puso e e ntseng jalo e ne e sa siama mo dinakong tsotlhe. Dingwao tsa kwa Bophirima di senka gore motho le fa a bewa molato wa gore o bolaile motho, a newe tshiamelo ya go ipuelela. Ka mokgwa o o ntseng jalo, hofo e kgona go leba mabaka a mantsi a a fokotsang bogale jwa kotlhao.
- 11.8.2 Kgotla ya Batswana ya Morafe e tlhalosa kwa ntle ga go ithamaka jana: Motho yo a bolailweng a ka se ka a busetswa mo lefatsheng go tshela gape mme ka jalo ke tshenyegelo e tona mo setšhabeng le mo go ba lelapa la gagwe. Mo dinakong tse mong wa lelapa a bolawang jalo o tlogela bana ba gagwe ba sena yo o ka ba otlang. Mo dinakong tsele tsa thudi, motho fa a bolaile yo mongwe le ene o ne a pegwa ka thudi. Gompijeno motho yo o bolaileng yo mongwe o tla newa Mapodisi a Namibia go isiwa kwa Hofong ya kwa godimo go atholwa ke moatlhodi.

- 11.8.3 Kgotla ya Morafe, fa e digetse go tlotlhomisa kgetsi le go bona mosekisiwa molato, e tla swetsa jana:
- (a) E tla leta mosekisiwa gore e fetse dingwaga tsa gagwe kwa kgolegolong.
  - (b) Morago o tla bidiwa ke Kgotla ya Morafe.
  - (c) Kgotla e tla mo tlhomela dikgomo di le masome a mabedi (20) go otlaba bana ba motho yo o bolailweng. Ka madi e tla nna masometlhano a dikete tsa Didola tsa Namibia (N\$50,000).
  - (d) Dikgomo di le pedi di tla tsewa ke Kgotla ya Morafe.

## **11.9 Go leka go Bolaya**

- 11.9.1 Mo dingwageng tsotlhe tsa botshelo batho ba ne ba leka go bolaya ba bangwe ka mabaka a le mantsi. Lefufa, puseletso le go didimatsa motho ke mabaka a a itsegeng.
- 11.9.2 Batho ba tlhoile ba ba humileng go ba feta, mme mo banna ba lwang gone, basadi le bone ba mo teng.
- 11.9.3 Ba losika gantsi ba lefufa ka bone bosi mme gantsi ba duela motho go bolaya yo ba sa mo rateng kgotsa ba dira jalo ka bona bosi.
- 11.9.4 Motho yo o bewang molato wa go leka go bolaya o tla lefisiwa dikgomo di le some (10), mme o tla newa hofu ya molao go mo isa kgolegong.
- 11.9.5 Kgotla e tla naya yo o utlwisitsweng botlhoko dinku di le thataro go mo gomotsa.
- 11.9.6 Di le pedi ke tsa kgotla.

## **11.10 Go utswa motho**

- 11.10.1 Go raya go re go tsaya motho kwantle ga tetla le go mo isa go sele. Ngwana a ka utswiwa gore go senkiwe madi a go mo lokolola; mosadi o ka tsewa ga bo go senkiwa madi a go mo lokolola, kgotsa a diriwa lekgoba la kamano, kgotsa a rekisiwa. Go utswa motho ke molato o motona thata, mme bagologolo ba ne ba bolaya magodu a batho fa ba ne ba ba tshwara. Motho yo o neng a utswa batho o ne a lekgwala le phiri ya bosigo, e e boleo.
- 11.10.2 Motho yo o bewang molato wa go utswa batho o tla lefisiwa dikgomo di le somepedi (12).
- 11.10.3 Mme o tla neelwa hofu ya molao go mo romela kgolegong.

## **11.11 Melato e menyenyane mme e e gakatsang Kgotla ya Morafe**

- 11.11.1 Go tlhoka maitseo mo pele ga batho
- 11.11.1.1 Se se direga segolo ga motho a sa godisiwa sentle, kgotsa motho yo o leng setsenwa. Monna kgotsa mosadi a ka tsola diaparo tsa gagwe a nna mapono fela jalo gore a bogiwe. Go teiwa gape le batho ba ba ikutswang go okomela babangwe ba tlhapa kgotsa ba tsotse ba thuma kgotsa ba le mo šawareng. Go



tlhoka maitseo mo pele ga batho gantsi go direga fa motho o tlhapologa fela mo pele ga batho ba lebile.

11.11.1.2 Mang le mang yo o bewang molato wa go:

- (a) Tlhapologa mo pele ga batho o tla lefisiwa lekgolo la Didola tsa Namibia (N\$100) fa ele lwa ntlha.
- (b) Go utswa go boga batho ba tlhapa mo bateng, kgotsa mo ntlwaneng ya go ithoma, kgotsa mo šawareng o tla lefisiwa Didola tsa Namibia di le makgolo mabedi (N\$200).
- (c) Monna fa a tsena mo phaposeng ya basadi o tla lefisiwa makgolo a le mararo a Didola tsa Namibia (N\$300).

11.11.1.3 Mo melatong yotlhe ya go tlhoka maitseo mo pele ga batho, ba ba molato ba tla newa tiro mo kgotleng ka peke le garangwe. Ke go akaretsa go epa mesima, go jala ditlhare, go baakanya diterata, go ferefa (penta) Kgotla, go suga dikgole.

## **12. Karolo ya bongaka le boramelemo mo setšhabeng**

12.1 Bontsi jwa batho ba rona bo sa dumela gore motho o ka kgona go dira dilo ka dipheko tse o palelwang go di dira ka bowena. Go dumelwa gore go dirisa dipheko/ ditlhare go ipuseletsa, go busetsa boleo morago ko go ba ba go senyeditse go siame. Dipheko gape di dirisiwa go thea metse go lwantsha mewa e sa siamang, go upa masimo, go fetlha pula, le go loa batho.

12.2 Banna le basadi ba katiswa go nna diboni, boramelemo, bongaka le bosangoma. Bongaka ba arogangwa mo ditlhopheng di le pedi: (a) dingaka tse di dinaka; (b) dingaka tse di tshotsha. Tse di dinaka di dirisa ditaola go tlhatlhoba motho, mme tse di tshotsha di leba mo teng ga motho go bona.

12.3 Boramelemo bone ba botsa mmobodi ka ga mathata a gagwe mme gantsi ba tsena mo sekgweng, ba e go boa le medi ya dilthare, babo ba e bedisa, ba naya mmobodi go nwa molemo. Dingaka tse dingwe ba dirisa mabebo go tlhakanya babobodi ditlhogo mme gantsi ba naya mmobodi molemo wa go tlhatsa. Mmobodi o tswala matlho fa a tlhatsa mme o a bula morago, go fitlhela segwagwa kgotsa mokgaditswane kgotsa nogana mo matlhatseng. O a dumela fa a bolelelwa gore mathata jaanong a rarabolotswe o tla fola, mme o a dumela. Dingaka gape ba bitsa badimo gore ba ba thuse go fodisa babobodi.

12.4 Dingaka tsaa setso ba dira tiro ya bone mo dikarolong tse:

- (a) Go thusa babobodi go ba fodisa.
- (b) Go thusa basadi ba ba sa belegeng.
- (c) Go thusa banna ba ba sa belegeng
- (d) Go thusa banna ba ba sa ratweng ke basetsanyana kgotsa basadi
- (e) Go tiisa babusi go busa ka natla.
- (f) Dipheko tsa letlhogonolo le tsa lorato.
- (g) Go tiisa batsomi le batlhabani.
- (h) Go thaye metse go lwantsha mewa e boleo
- (i) Go tiisa masaka, masimo le meraka ya dikgomo go, sireletsa leruo.
- (j) Go buseletsa loso lwa go tshwara-tshwara.

- 12.5 Mme jaaka Kgotla ya Morafe ya Batswana ba Namibia e lemoga gore dingaka di na le namane e tona ya tiro mo setšhabeng, botlhokwa jwa go tlhokomela ditiro tsa bone bo bo tona ruri.
- 12.6 Mme jaaka dingaka di se na makwalo a go itsege, Kgotla ya Morafe e atlhola jana:
- (a) Dingaka tsaa setso tsotlhe le boramelemo le diboni ba tla ikwadisa mo Kgotleng ya Morafe.
  - (b) Ba ba ikwadisang ba tla newa karata e e tlhophilweng.
  - (c) Dingaka tse di senang makwalo ba ka seka ba dumelelwa go dira tiro ya bone mo kgaolong ya Batswana ba Namibia.
  - (d) Kgotla ya Morafe e tla tlhoma mabaka a rileng a go ikwadisa go itsege.
  - (e) Kgotla ya Morafe e tla tlhomela bongaka dituelo tsa babobodi ba bone.
  - (f) Melemo e e neelwang babobodi e tla ntshiwa fa pele ga Kgotla fa e senkiwa.
  - (g) Diphaposi tsa dingaka mo ba tlhatlhobelang babobodi gone, di tla tlhatlhobiwa ke Kgotla ya Morafe.
  - (h) Dingaka tsa setso tse ba dirang tiro ya bone mo kgaolong ya Batswana ba Namibia ba tla tlhompha melao le ditaelo tsa dimela tsa tlholego ya Mmuso e e amang dimela le diphologolo tsa naga ya Namibia.
  - (i) Dingaka tse di jang nala mo kgaolong ya Batswana ba Namibia go alafa babobodi, ba tla bona tetla ya Kgotla ya Morafe pele ba kopana le babobodi ba bone.
  - (j) Dingaka tsotlhe tse di dirang mo kgaolong ya Kgotla ya Morafe ya Batswana ba Namibia ba tla duela Kgotla tefo ya bongaka ya sekete sa Didola tsa Namibia (N\$1,000) ka ngwaga.

## **DIMAMETLELELO**

Mametlelelo 1: Seano sa setso sa Bogosi jwa Batswana ba Namibia  
Setshwantsho sa Tshwene



Mametlelelo 2: Mebala ya Kgotla ya Morafe  
Setshwantsho sa Mebala ya Setso ya Kgotla ya Batswana ba  
Namibia

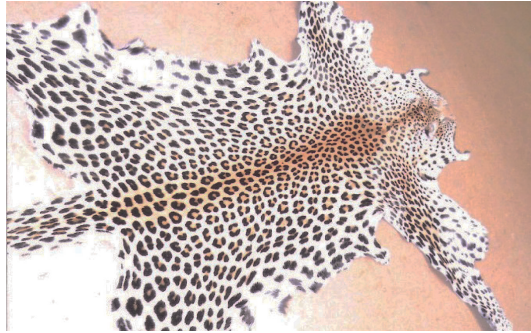


Tlhaloso:

1. Khibidu ke madi a ba ba suleng ka dintwa tsa bogologolo.
2. Tala ke lefatshe larona-tlhago le dimedi.
3. Tshweu tsholofelo ya bokamoso – tswelopele, lorato, tlhabologolo

Mametlelelo 3: Maemo a Setso  
Kgosi: Kgosi kgolo  
Khuduthamaga  
Dikgosana  
Rramotse

Mametlelelo 4: Letlalo la Nkwe  
Setshwantsho le Tlhaloso, maikemisetso le seaparo



Mametlelelo 5: Leboko la Bogosi jwa Lotlhare

Ba-bina-Tshwene,  
O ba atlarele ka diatla tsoo pedi  
Motlharo!  
Leshabo la Batshweneng o le tlhokomele thata.  
Melao ya бага-Motlharo a ke e seka-sekwe;  
Ere tsatsi le tlhaba badimo ba Bahurutshe ba go tlhodumele.  
Ba go tlhodumele bana ba tle ba je ditlhekwa.  
Tshwene e tlola dikgaga le dithaba  
E lebile kwa Mpikirwa.  
Go nwa magapu e intsha lenyora le letsatsi.  
Busa ka pula ya tsheola ngwaga wa Magaila-kgomo,  
Ba ntholeng kgosi o ba segele masimo.  
Dikhutsana o di tlogelele dikika go di gora  
E tle e re kamoso ditlhokwa di go robalele.  
O gate o kwakwanta jaaka yone rotwe mo gare ga Batlharo,  
Badimo ba ga Motlharo le bone ba go latlhelele marothodi.  
Ke go bokile kgosi, maina le one a fedile,  
Nkabo ke le mmoki nkabo ke ipega;  
Nkabo ke go supetsa lonao lwame lo lo manga  
Ke re kgosi le fa ele seopenyana se ka ntekana.

Go bua nna Gopanyane a phusuwa  
Gopanyane wa go bua a kwakwaetsa!  
Gopanyane wa pitseng oo Rantswelengwe

Kgosi Kgosiemang

Madume Madume Madume Batlhao!!  
A lobona Nkwe ke eowa  
Motshwening Motlharo  
Nkwe tilodi e motshwanelang jang  
Ke Kgagapa ya Molotlhare  
Ngwana waga Baitshwarelo,  
Kgosiemang, Morwe, Bareki

Kgagapa ya duma gareng ga dikgwa  
Ya duma, yatshosa Batlharo baitebetse  
O mokhutswane mme  
Ditiro tsa gagwe ditelele

Manong a hitile a le mararo  
Bare jora Morwe ke jele tlhogo pududu  
Jaaka Pula ya morwalela  
Lefatshe le roromela go Tswa ko Coe  
Re tswa ko Kuruman

Go kgabaganya Kgalagadi  
Pheko tsa tshubega gogoroga mo Mokala:  
Re tla bolela bana le banyana  
Rere Mokgasi o leditswe  
Ka ga ngwana waga Motlharo  
Key o o wa ha moleta Letang!!!  
Gado tlodiwe e se le tsoku  
Ngwao ke boswa jwa rona  
Yo o sa kgorang a tle kwano  
Ha metse a morwalela a kgoberega e re bohelong aitsheke.  
Phuta morafe jaaka tau e phuta malawana

Ka gone!!!!

Yo o sareng Kilihili Aduma.

Mokgose Pula Pula Pula



## THE LAWS OF THE BATSWANA BA NAMIBIA<sup>8</sup>

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<sup>8</sup> Compiled by Mr AN Matjila in close cooperation with the Batswana ba Namibia Traditional Authority and its Consultative Committee whose other members were *Kgosi* CL Kgosiemang (Chairperson), Ms E Mbuende, Mr I Thudinyane, Mr A Maritshane, Mr D Lebereki, Mr P Thataone, Mr G Bohitile, Mr S Olibile, Mr M Mosimane, Mr C Pogisho, Ms A Katamelolo, Ms FK Moshosho, Ms M Ferreira, Mr AB Modisa, Mr A Makabanyane, Mr O Bendt, Ms M Slinger (Secretary).





## Preamble

Whereas we, the Batswana ba Namibia, originally came into this country through our ancestors who hailed from various parts of southern Africa, and in particular the northern Cape, over a hundred years ago;

Whereas our ancestors came to settle in the eastern parts of Namibia around the Aminuis, Corridor and Epukiro Roman Catholic Mission areas;

Whereas our ancestors came to Namibia professing certain traditions and cultures of their own;

Whereas we, the generations of today, recognise and respect these traditions and cultures as the foundations of our very existence;

Whereas we hold these traditions and cultures as the very basis of our Namibian heritage;

We therefore commit our culture, our traditions and our traditional heritage to writing as follows:

### 1. Physical environment and traditional seat

Although the Namibian Constitution grants all citizens the right to live anywhere they wish, the *Batswana ba Namibia* established their traditional seat in Aminuis from the early days of their arrival. It is generally known as Mokala, which means “the Base” or, simply, “the Tree”.

This is where the early Batswana settlers established their base and future Chiefs followed this example. Even at the time of writing these laws, our people are predominantly settled in the triangle made up of the Aminuis, Corridor, and Epukiro Roman Catholic Mission areas in the Omaheke Region.

Our population is quite small, numbering less than 20,000. Before the arrival of the Europeans, the area teemed with all kinds of game, and meat was abundant. Although the area is not fertile, the Batswana – farmers by nature – cultivated the soil and produced sorghum, groundnuts, pumpkin, sugar cane and beans. Today, although the people are scattered and live in different areas of the country, they regard Aminuis as home, i.e. where cultural feasts are to be celebrated and the gods/ancestors appeased.

The Batswana nation of southern Africa is divided into about 25 groupings, with each group having its own species of animal or bird as a totem, known variously as a *sereto*, *seano*, *leboko*, *seila* or *seboko* – an object of honour, veneration or praise. A tribe with a specific totem is not allowed to eat the meat of that animal or bird out of respect. Thus, in the area of the Kudu people (*Babina tholo*), kudus would naturally proliferate because

no one would hunt them. Some animals, like the lion, crocodile, elephant, monkey and baboon, are represented in every tribe as totems.

Every tribe also contains members of many different totem groups: 18 among the Batshidilolong, 16 among the Maletse, and 22 among the Bangwaketse. It is generally accepted that people with the same totem are of the same origin, while those with different totems from that of their Chief in the same tribe are held to be of foreign extraction.

If people kill or eat the meat of their totem by mistake, they are obliged to undergo a special purification ritual in order to avoid sickness or misfortune. Greeting someone by way of naming that person's totem is regarded as being very polite in Setswana. Thus, *Tshwene!* ("baboon"), *Tau!* ("lion"), *Tlou!* ("elephant"), *Kgabo!* ("monkey"), *Kgomo!* ("buffalo"), and *Kwena!* ("crocodile") are common forms of greeting in Setswana. Unfortunately, the practice of totemism is gradually dying out, especially where animals have become extinct due to over-hunting by colonial hunters. Children born in the city or in urban areas, who have never seen live game in the wild, know little or nothing about totems or totemism.

## 2. Land tenure

In the past, the Batswana were self-supporting and capable of living off the land. The area stretching from Bulawayo in Zimbabwe to Pretoria, Kimberley and Upington in South Africa, up to where the Okavango River enters Botswana in the north, and then back to Bulawayo – this was all Batswana territory, where they had established permanent homes.

The area they had settled in became their land and they shared it according to Batswana custom, with Headmen/-women always being responsible for distributing the land among the people. Contact with white people introduced new commodities that drastically changed their way of life. Acceptance of these commodities greatly extended the range of wants, and created new standards of wealth and social status.

Today, money has become the most important medium of exchange. In spite of it, many people still depend on the land for survival. They keep cattle, sheep, goats, donkeys, horses and mules, which are often sold at auctions to get money. Although the people virtually own the land they occupy in the Aminuis/Corridor Reserve, they may not sell it or alienate it to foreigners as it is kept in trust for the community by the state.

The government has the power to regulate the use of the land, e.g. by prohibiting the cultivation of banned plants such as cannabis, by protecting roads and water supplies, by preserving game and timber, and by controlling the movement of livestock.

In the Chief's area of jurisdiction, people need the written permission of the Traditional Authority to open businesses on communal land or put up structures on it which provide for public amenities. Such businesses are obliged to pay the Chief rent use of

land. Although communal land is under the jurisdiction of the Chief, acting through Headmen/-women, the government still has authority on such land because they hold it in trust for the traditional community. For example, nobody is allowed to fence off any large portions of communal land for his/her own private use without the permission of the Traditional Authority.

Every person is given a portion of land that s/he utilises by establishing a home for his/her dependants. As long as that person maintains a home and uses the land for cultivation or any other permitted purpose, s/he has exclusive rights over it. On his/her death, it will be passed on to his/her heirs. Furthermore, because women have the same rights as men in Namibia, they are entitled to land – whether or not they are married.

Land is also available for the resettlement of destitute citizens by the state. Such land may not be rented out or sold by those who live on it.

Cattle posts have been established in the Omaheke Region's Gobabis District, and many Batswana people have been allocated such posts as grazing land, e.g. Tjaka/Ben-Hur and Ombirisu/Orion. Batswana farmers who have the means to do so have their own land where they farm on a commercial basis.

## **2.1 Homes and households**

The traditional Batswana hut comprised a circular wall of poles and mud with a conical grass thatch. The hut always faced east to catch the first light. Among the western Batswana, the roof was supported by a central pole called a *pina-gare*. The door consisted of a woven reed mat. There were no windows. The floor was made smooth with mud and cattle dung. Inside were baskets, mats, pots, karosses, and so on.

## **2.2 Animal husbandry**

The Batswana are farmers by nature. They till the soil and farm cattle, sheep and goats. In Namibia, the soils are not good for crop production. Farmers therefore concentrate mainly on animal husbandry.

The Batswana in Namibia keep large herds of cattle, donkeys, sheep and goats. The advent of Europeans brought horses and mules, which farmers use as beasts of burden.

On the other hand, there are many among the Batswana in Namibia who do not own livestock at all. Horses and donkeys are used for riding as well as for donkey carts. The meat of cattle, sheep, goats, donkeys and horses is eaten when available, and the milk of cows and goats is consumed fresh or sour. Butter is also made from the fat extracted from fresh as well as sour milk. Cattle, sheep and goats are exchanged in marriage as lobola (*bogadi*). Oxen are yoked to pull ploughs or sledges. As cattle have been a status symbol from time immemorial, many farmers still rely on regular cattle auctions. Modern methods of stock farming are respected and regular inoculation, dipping and

dosing takes place to fight stock pests and diseases.

As an encouragement to farmers, regular workshops, monitoring and assistance by government agricultural extension officers is a necessity. Another means of aid to prospective farmers are soft loans for buying equipment, implements, livestock, machinery, etc.

The Omaheke Region is generally good for stock breeding because of its abundant grazing after the rains. When the rains fail, terrible droughts are commonplace. Farmers then depend on government drought relief programmes, where fodder and lucerne can be bought through state subsidies. Water is available from boreholes drilled by the government.

### 2.3 Food production

Traditionally, our people's staple food was sorghum meal porridge (*ting ya mabele*). Other cultivated products such as beans, sweet potatoes, yams, pumpkin and peanuts were also part of the daily menu. During the rainy season, wild spinach (*thepe*), which grows in abundance around villages, was a very popular dish. Goats and cows provided milk, which was soured for drinking. Meat was obtained by hunting, as domestic animals were rarely slaughtered.

Most people ate the same kind of food, except where specific foods were taboo for certain sexes, totems, ages and, sometimes, tribes. For example, girls were not allowed to eat eggs; people whose totem was the kudu (*tholo*) could not eat its meat; and boys were not allowed to eat chicken thighs.

Uncles and aunts had the privilege of eating certain parts of slaughtered animals, like cattle. For example, an uncle was entitled to the head of a slaughtered ox or cow, while an aunt's portion was the brisket. Only old men could eat kidneys, or the testicles of castrated bulls. The brain of a slaughtered animal could only be eaten by elderly men. Only once the Europeans came did our people learn to cultivate all kinds of vegetables that are now served as special dishes.

We have also acquired a taste for tea, sugar, bread, canned meats and fruit. Due to the work programmes developed by white employers over the years, our people have become used to eating three meals a day, i.e. breakfast before going to work, lunch, and then supper (dinner). The most important meal of the day is, of course, the evening meal or supper. However, malnutrition still prevails among many of our people because of poverty.

Sorghum malt is also converted into a mild beer through a short fermentation process. The drink is called *bujalwa* in Setswana, and is very nourishing. Contact with Europeans also brought with it European liquor such as brandy. Later, some of our communities

became addicted to *khadi*, a beer made from fermented honey and wild berries. Tobacco, imported from abroad and later grown locally, is also widely used by our people.

Cigarettes became very popular when they were introduced to our people. Dagga (cannabis), called *the tobacco of the warriors* (*motsoko wa marumo*), was only smoked by adults in the past. However, colonial governments prohibited its cultivation and use. Today, smoking dagga is punishable by a jail term or a heavy fine. Our Traditional Authority also forbids the smoking of dagga.

### **3. Economic productivity**

#### **3.1 Artworks, crafts and decoration**

##### **3.1.1 Clothing and ornaments**

Traditionally, the Batswana made their clothes from animal skins, both wild and domesticated. Children wore a small flap in front, while boys and men wore loincloths. Women wore a large apron in front and a skirt at the back. Added to this were a kaross and sandals. Blankets were also made from animal hide, very finely tanned to make it soft. Skins of smaller wild cats made special blankets for the rich and for the Chiefs.

Most people wore ornaments of some kind. There were necklaces, bangles, anklets and leather bands made of beads, copper wire, or grass. Specially designed clothing and ornaments were worn on special occasions and feast days. Initiates and warriors also had special attire. Similarly, women who were getting married wore specially designed clothing and ornaments to make themselves more attractive to their husbands.

Nowadays our people think of traditional dress only on special occasions. European dress has completely taken over, to the extent that some of our people have become designers of modern clothing themselves. As ornaments, they wear golden bangles, watches, rings, chains and necklaces. Diamonds – stones which diviners used before the whites came to our region – are worn on expensive rings to enhance the beauty of our women. Indeed, for a man to marry a woman today, he must be prepared to buy an expensive wedding ring. Our Traditional Authority promotes good, public marriages as part of our culture of modern-day Namibia. All marriages are to be officially recorded by public servants.

##### **3.1.2 Specialised crafts**

In former times, individual Batswana families made their own clothing from the skins of wild animals, as well as from sheep and goats. They also made their own utensils, ornaments and implements. It was the men's duty to provide their families with leather blankets (karosses), wooden utensils, metal implements such as hoes, and weapons such as assegais and axes. Women made clay pots, and both sexes did basketry. Some of these occupations were very specialised. Gifted men became experts in the art of making

weapons, while others made tools and implements. Some women became great potters and taught their children to continue with the art as a family occupation.

Metal work and pottery eventually became confined to certain families, within which expertise was handed down from parent to child for generations. It must be stated here that although most men could make things, others distinguished themselves and became famous for the superior quality of their products.

Over time, many became the Chief's wood carvers, weapon-makers, kaross-makers, and so on. However, contact with Europeans soon put a stop to local production of various goods in preference to European-made axes, shovels, rakes, spades, spoons, forks and knives, plates and dishes, mugs, cups and saucers, three-legged pots, saucepans, frying pans and many more. Together with these new items came new types of tools and skills brought by missionaries.

Men started learning to make pieces of furniture from wood, such as tables, chairs and beds. These new items were not originally part of the Batswana culture. Therefore, they retained their European names in 'Tswanalised' form or new terms were coined, e.g. *tafole* from *tafel* ("table") in Afrikaans; *foroko* from English *fork*; *setulo* from Afrikaans *stoel* ("chair"); *tlhobolo/tlhoboro* for *gun*, from *tlhotlho*, the sound of loading a muzzleloader, and *borooo*, from the sound of the explosion; *borikgwe/borukgwe* from Afrikaans *broek* ("pants"); *gempe* from Afrikaans *hemp* ("shirt"); *baki* from Afrikaans *baadjie* ("jacket"); and many others.

Some women acquired skills in dressmaking and were soon selling their wares to their communities. Ironically, everybody continued to participate in the No. 1 occupation of the Batswana people, namely farming. Even to this day, although a Motswana man or woman may be a school teacher, a minister of religion, a magistrate or even a judge, farming is part and parcel of their lives.

### 3.2 Labour assistance

Work has never been too daunting or too much for Batswana families. Any task that had to be completed in the shortest possible time was attacked with vigour with the aid of relatives. A work party known as *letsema* was always organised to deal with tasks such as clearing new fields, building a new hut, hoeing the fields, or thatching a roof. The work party is generally paid with meat to take home, or given utensils they need. During the activity, the host is obliged to prepare food and drink for the workers.

An African brew known in Setswana as *bojalwa* is prepared for a work party, and is generally enjoyed when the work is complete. Men who have no relatives to help them employ outsiders to look after their cattle posts.

Wealthy Batswana men loan some of their livestock for poorer people to look after. Such livestock is said to be in *mafisa*, and those looking after the cattle may render other

services to the owners. In return, they have milk and use the cattle for various purposes as draught animals, and may receive a heifer at the end of each year.

Many government employees use the services of those who are not employed to take care of their livestock, clear new land, and cut thatching grass, among other tasks. Nowadays, people are employed as builders to put up modern homes for teachers and civil servants in the rural areas. Certain tasks are performed by specialists who are hired by households needing their services. People such as magicians and traditional healers are also employed to cleanse and bless homes, fields and kraals.

### **3.3 Trade and bartering**

Bartering was used by traders to exchange new and unknown products for cattle, ivory, furs, skins, etc. Formerly, our people were involved in internal trade with each other. Iron implements, pots, skin blankets and many other objects made by local specialists exchanged hands on a daily basis. There was also trade in corn and meat. These items were used in bartering for many years. Eventually their value became standardised. A hoe, a spear and an axe were worth a goat each, and a pot was worth its content in grain. There were no built-up centres or markets where goods could be offered for sale. Any person who had something to sell usually did so by announcing their intentions. If there was a customer a deal was soon concluded.

There was no trade between tribes except during times of drought, when neighbours would visit those who had food to sell. In such cases, permission had to be obtained from the Chief. A tribute had to be paid in advance to obtain such permission. A heifer, some rolls of tobacco, or tools were paid as tributes to 'open the gates' (*go bula dikgoro*) for the traders.

Today, people can still agree on an exchange deal where one party offers two goats in exchange for a bicycle or a donkey. Others can perform duties in exchange for a goat, a donkey or a calf. Cattle are the most important asset among our farmers, and fetch good prices at auctions.

Modern living brought with it new ways of trading, introduced by the Europeans. Indeed, our former staple foods are sold in local shops today. While some of our people own grocery stores, others have established themselves as photographers, musicians, restaurateurs, transporters and consultants. Wholesalers located in the town of Gobabis serve to replenish the supplies of most of our traders.

### **3.4 Wage labour**

Most of our people who are employed have joined labour unions in order to negotiate better prospects on the labour market. Our Traditional Authority supports the unions for the sake of our people. Unfortunately, due to very limited employment opportunities



in our area, very few people get jobs. Thus, many go to Gobabis, Windhoek and other centres for better opportunities.

### 3.5 Labour migration

During the colonial period, a system of employment known as *contract labour* was devised by the colonial administrations. Under this system, black workers left their families at home in the rural areas and, in terms of signed contracts, migrated to towns to work for a specified period. Black men were transported like animals from place to place to be used as tools in the new masters' development programmes.

Recruiting companies such as the Witwatersrand Native Labour Association (WNLA, or *Wenela*, as it was known) contracted thousands of black men to work in the mines, on farms, and at various other centres which required intensive labour. The absence of men in the rural areas resulted in a drastic decline in local activities. Also, many of our people were forced into leading double lives – with their original family back home in the communal areas and another in the city. On their return to the countryside, many men began to look down on their culture in preference to Western standards. Today, many members of the younger generation are trying to find their roots in a society of parents who are not sure of their roots either. Our Traditional Authority is hard put to reverse the tendency, among the youth in particular, to disparage Batswana culture.

### 3.6 Hunting

Due to modern methods of conservancy, hunting is no longer allowed in reserves such as Aminuis and Corridor. It is also not allowed in the small settlements in Tjaka and Mbirisho, or in any other farm under the Batswana Traditional Authority's jurisdiction. Batswana farmers who own private commercial farms do, however, hunt on their farms. Nowadays, our people are being encouraged to form conservancies as joint ventures for economic empowerment and social development.

### 3.7 Tribal finances

Before the Europeans came, the Chief received tributes from his subjects in the form of corn, cattle, ivory, wild animal skins, tools, weapons and ostrich feathers. He also kept all the cattle looted in wars or confiscated from those who were fined for offences. Also included were the fines paid to community courts. On the other hand, it was common practice for the Chief to entertain visitors and, sometimes, to send gifts to neighbouring friends.

The Chief's warriors were also rewarded for their services whenever necessary. In addition, the Chief gave many head of cattle to poor people as *mafisa* so that they could have milk and draught animals. During droughts, he offered relief to the community by opening his granaries to those who had nothing.



With the coming of white missionaries, conflicts ceased and there was no more war among members of the Batswana tribe.

## 4. Social status among the Batswana

Our people recognise three separate classes in their social status:

- Nobles (*dikgosana*), who are descendants of Chiefs and Headmen
- Commoners (*badinhlha*, *batlhanka*), who are the descendants of aliens incorporated into the tribe long ago, and
- Immigrants (*bafaladi*, *baagedi*), who are more recently admitted individuals or groups.

Of the three, the first two are generally regarded as the genuine members of the tribe and they can make proposals or give advice. The head of a village is an important figure, as s/he represents the Chief.

In the past, in order to attain higher positions in the Customary Court (*Kgotla*), men were rated according to their bravery in war and in hunting dangerous animals, although wealth granted a man social status as well. Among the western tribes, a class of serfs (*balata/balala*) was also recognised in higher positions. For example, the Basarwa and the *Bakgalagadi* were formerly serfs to the Batswana.

### 4.1 Factors determining social status, rights and obligations

#### 4.1.1 Tribal membership

Membership is determined by birth. After a long period of residence, however, an immigrant can be accepted as a member by the Traditional Authority.

#### 4.1.2 Kinship

Batswana ba Namibia inherited kinship from their ancestors and pursued it much further than is common in Western European societies. The differentiation between close relatives is based on sex, age, and line of descent, and applies a special kinship term to each category. The terms can be extended ingeniously to distant relatives so that almost everybody with whom genealogical connection can be established, no matter how remote, is brought within the circle of kin. Unlike members of the family, these people are spread out in the community, and sometimes even outside the tribe.

The following list contains terms in pairs of reciprocals commonly used for closer kin and affinity. The terms are in pairs of reciprocals:

- (a) Parent:Child
  - (i) Father = *rre*, *ntate*; mother = *mme*
  - (ii) Child = *ngwana*; son = *mora*/*morwa*; daughter = *moradi*/*morwadi*

- (b) Siblings
  - (i) Older brother (man speaking), older sister (woman speaking) = (*mogolole, mogolle*), *nggonne*; also *mogol'wake*
  - (ii) Younger brother (man speaking), younger sister (woman speaking) = *nnake*
  - (iii) Brother (woman speaking), sister (man speaking) = *kgaitsadi'aka*; *kgantsadi'aka*
- (c) Grandparents:Grandchildren
  - (i) Father's father, Mother's father = *rremogolo, ntatemogolo*
  - (ii) Father's mother, Mother's mother = *mmemogolo, nkoko*
  - (iii) Sister's cousin, Daughter's cousin = *ngwan-ngwana, ngwan'angwanake, setlogolo; motlogolo*
- (d) Parent's sibling:Sibling's child
  - (i) Father's older brother = *rremogolo, ntatemogolo*
  - (ii) Father's younger brother = *rrangwane* (meaning: *rre yo monyenyanane*)
  - (iii) Brother's child (mother's child) = *ngwana-mogolole/nnake; ngwanaka*
  - (iv) Father's sister = *rakgadi*
  - (v) Brother's child (woman speaking) = *ngwana-mogolole/nnake; ngwanaka*
  - (vi) Mother's brother = *malome*
  - (vii) Sister's child (man speaking) = *setlogolo, motlogolo*
  - (viii) Mother's older sister = *mmemogolo, nkoko*
  - (ix) Mother's younger sister = *mmangwane, mmane*
  - (x) Sister's child (woman speaking) = *ngwana-mogolole/nnake; ngwanaka*
- (e) Cousins
  - (i) Father's brother's child = *ngwana-rremogolo/rrangwane*
  - (ii) Mother's sister's child = *ngwana-mmemogolo/mmangwane*
  - (iii) Mother's brother's child, Father's sister's child = *ntsala; motswala*
- (f) Spouses
  - (i) Husband = *monna, monona; mogatse; mogatsaka*
  - (ii) Wife = *mosadi ; mogatsa; mogatsaka*
- (g) Wife's parents:Daughter's husband
  - (i) Wife's father, Wife's mother = *mogwagadi*
  - (ii) Daughter's husband = *mogwe, mokgonyana*
- (h) Wife's sibling:Sister's husband
  - (i) Wife's brother = Brother (man speaking); Wife's father = *mogwe, molamo*
  - (ii) Sister's husband (man speaking) = Daughter's husband; Brother (man speaking) *molamo*
  - (iii) Wife's sister = Sister (woman speaking), Woman or man = *nnake*
  - (iv) Sister's husband (woman speaking) = sister; daughter's husband (younger sister's husband only) = *mogatsa'nnake*

- (i) Wife's sibling's child: Aunt's husband
  - (i) Wife's brother's child = Brother's child (woman speaking); Brother's child (man speaking) = *ngwan'a mogolole*
  - (ii) Father's sister's husband = Father's sister; Daughter's husband = *mogats'a ngwan'a ga rakgadi*
  - (iii) Wife's sister's child = Sister's child (woman speaking) = *ngwana-mogwagadi*
  - (iv) Mother's sister's husband = Mother's sister; Father's brother = *mogatsa-mmemogolo, mogatsa-mmangwane*
- (j) Husband's parents: Son's wife
  - (i) Husband's father = *rratsale/rratswale*
  - (ii) Husband's mother = *matsale, mmatswale*
  - (iii) Son's wife = *ngwetsi*
- (k) Husband's sibling: Brother's wife
  - (i) Husband's brother = Brother (man speaking); Husband's father (husband or brother only) = *mogol'ake*
  - (ii) Brother's wife (man speaking) = Brother (man speaking); Son's wife (younger brother's wife only) = *mogats'a nmake*
  - (iii) Husband's sister = Sister (son's daughter) = *mogadibo, mogokane, bofije*
  - (iv) Brother's wife (wife's daughter) = Husband's sister = *kgaitsadi'ake*
- (l) Husband's sibling's child: Uncle's wife
  - (i) Husband's brother's child = Brother's child (man speaking) = *ngwan'amogolole*
  - (ii) Father's brother's wife = Mother's sister = *mmangwane*
  - (iii) Husband's sister's child = Sister's child (man speaking) = *motlogolo*
  - (iv) Mother's brother's wife = Mother's older sister; Mother's brother = *mogatsa-malome*
- (m) Spouse's sibling's spouse
  - (i) Wife's brother's wife = Wife's mother's sister (woman speaking) = *mmangwane*
  - (ii) Husband's sister's husband = Brother (man speaking); Daughter's husband = *mogats'a kgaitsadi'aka*
  - (iii) Wife's sister's husband = Brother (man speaking) = *molangwa*
  - (iv) Husband's brother's wife's sister (woman speaking) = *molodikane*
- (n) Child's spouse's parents
  - (i) Spouse's wife's parents = *batsadi бага mogatse*
  - (ii) Daughter's husband's parents = Daughter's husband; Husband's parents = *batsadi бага mogatsa moradi'ake*

4.1.2.1 In the Batswana culture, kinship forms the basis of many social institutions. The emphasis is always predominantly patrilineal:

- (a) Membership of the tribe, ward, village, etc., is determined by descent that can be traced through the father.
- (b) Rank and property normally pass from father to son.

- (c) If a man has no son then his possessions pass on to the next male member of the lineage, who is known as *losika/lesika*.
- (d) A man's surname is usually the given name of his father or paternal grandfather.
- (e) Wards and family groups bear the name of their leader's clan ancestor.
- (f) People worship the ancestors of their deceased paternal ancestors.
- (g) Kinship is the main determinant of marriage prohibitions and preference.

#### 4.1.3 Extended family life

The Batswana tradition lays down certain rules and responsibilities for men and women from the day of their marriage. Disobedience to these sacred rules can mean appearance before the traditional court and heavy fines in either cattle, goats or sheep.

Relatives are always expected to be friendly and hospitable to family members. They are also expected to help one another with work, with gifts of food and clothing, and when they are in any form of trouble. Relatives take responsibility over children when their parents die. A man's brother's children become his when their parents die. A man must help his parents, his siblings, his parents-in-law and other relatives when they are in trouble.

Family members (*bana ba mpa*) come together in times of trouble to hold a family council. When someone asks for the hand of a girl in marriage, it is the uncles (*Bomalome*) and aunts (*Borakgadi*) on both sides who deal with the whole process, and not the parents. In the Batswana culture, a child belongs to the community and not to the parents alone. The child must greet all adults as *rre* and *mme*. Men and women must be respected according to their age, with the younger people recognising the age of the older people when greeting them.

A man's relatives cannot be his rivals for property and position, according to the rules of inheritance and succession. A woman who is married and proves to be good is eventually accepted as a daughter by her in-laws. There are no orphans in the Batswana culture. The children are given to relatives for upbringing and education. They enjoy the same privileges as a man's own biological offspring.

#### 4.1.4 Adoption

A child or adult can be adopted into a tribe due to various circumstances. Previously, refugees and other unfortunate people as well as children who were orphaned by war were taken in by the Kgotla for adoption. Others were given to strong families in the community who had the means to take care of them. Adoption is still practised today among our people. Orphans are adopted by those who do not have children, or by those who are well-off and have the means to care for them. Extended families also adopt relatives' children and take care of them as their own.

#### 4.1.5 Royal lineage

The Lotlhare Clan carries the royal blood of the Batswana. The political structure centres on the hereditary Chief. The Chief presides over the *Kgotla* ("Assembly"), which meets

regularly to discuss matters affecting the tribe. The *Kgotla* is also the body that decides on new legislation for the community. The Chief presides over the Community Court, and is the principal representative of his/her people whenever matters are discussed with other tribes.

#### **4.1.6 Age**

Age is not the only criterion determining one's status in the Batswana communities. The head of the family – who is also usually the oldest member – exercises complete control and authority over the other members. The head of the family is also liable for delicts perpetrated by members of his/her household.

Between the ages of 14 and 18, boys and girls are required to be trained and educated in traditional law and customs. From the age of 21, a young citizen qualifies to be a member of the Community Court.

#### **4.1.7 Initiation (*Bogwera/Bojale*)**

Formerly, the Batswana practised the system of initiation. To this end, boys and girls entered a bush retreat for a specific period of time in order to become men and women. Adults are generally grouped into age sets or regiments (*mephato*). A regiment consists of men or women of the same age. New regiments were created by the Chief every seven years, when every boy or girl between about 16 to 20 years became eligible for initiation.

Male regiments are obliged to go through the initiation process (*bogwera*) as well as a period of toughening up in seclusion in the veld. The initiation for girls is called *bojale*, and also takes place in seclusion, but at home. These rituals are still observed by some Batswana tribes in certain areas of southern Africa today. Regiments are given names by the Chief at the time of their initiation. In later life, initiates are addressed according to their regiments, which is a great honour.

The names of regiments are given according to incidents at the time of the initiation, e.g. Maakanyane ("wild dogs", i.e. those who went when there was a scourge of wild dogs in the area); Mayakapula (those who were initiated when the rains came or during heavy rains); Tsie (those who went during the locust scourge), etc. A man or woman who is not initiated is generally not regarded as an adult. The Batswana ba Namibia are not generally against initiation as such, but the practice as it was done in the past has become taboo for health and political reasons. Today, any man can enter any hospital in the country and be circumcised. The practice of traditional circumcision has been modernised now, and has taken the form of responsibilities for men and women in preparation for adult life.

## **5. Marriage**

In Batswana culture and tradition, marriage is a sacred rite and formerly a man had to prove himself before he was allowed to take a woman in marriage. Cowards, thieves

and those who were not circumcised were not allowed to marry anybody's daughter. Batswana ba Namibia, therefore, –

- (a) accept marriage as a rite which brings about major changes in the status and other legal rights of the individual
- (b) are in full agreement that marriage enhances the status and participation of someone in public life, and
- (c) are in agreement that any man who wants to take a woman as a wife must have made up his mind completely to take responsibility.

## **5.1 Proposal of marriage**

- 5.1.1 The man's relatives shall approach the parents of the girl to ask for 'fire' or for 'a water calabash', meaning to ask for their daughter's hand in marriage.
- 5.1.2 If there is general acceptance of the proposal by the girl or woman and her parents, an agreement is then reached.
- 5.1.3 The agreement entered into is primarily an agreement between the two families to establish a marriage relationship between them, with a view to create a household and family.
- 5.1.4 A gift (*pula-molomo*) usually accompanies the negotiating group who represent the future groom. It can be a goat, a sheep or some money.

## **5.2 Customary engagement/betrothal agreement**

- 5.2.1 The successful conclusion of the marriage negotiations usually leads to the formal engagement, which is essentially a preliminary condition to a final marriage vow.
- 5.2.2 The betrothal agreement does not institute an enforceable pledge to marriage.
- 5.2.3 The engagement may be terminated or broken without giving rise to a claim for compensation or damages for breach of contract, unless both parties had bound themselves in writing.
- 5.2.4 The implications of such a breach are limited to proprietary issues regarding material goods that have changed hands pending the proposed marriage. These goods can be in the form of a goat, some money, blankets, a sheep or a cow, given as a pledge to a future commitment to marriage.

## **5.3 Lobola**

### **5.3.1 Meaning and scope**

- 5.3.1.1 *Lobola* is the transfer of the reproductive power of a woman from her family to that of her husband. This process is of crucial importance, for upon it rests the whole Batswana conception of legitimacy.
- 5.3.1.2 To summarise this briefly, it must be stated that no form of cohabitation between a man and a woman is recognised as a marriage in Batswana culture unless it is accompanied by the transfer of lobola, or an understanding that lobola will be paid.

- 5.3.1.3 No man shall have the right to claim, for any purpose, the children he has by any woman, until he and his family have agreed to transfer lobola and, under certain circumstances, until they have actually made such transfer.
- 5.3.1.4 On the other hand, all children born of a married man, no matter who the actual father may be, are held to be legal offspring of the man on whose behalf lobola for the children's mother was paid.
- 5.3.1.5 Lobola is paid because the woman is said to be coming 'to expand the village'. All incidents flowing from the lobola transfer are derived directly from this conception.

### **5.3.2 Legal position of lobola**

- 5.3.2.1 The lobola cattle must be delivered prior to the marriage or on the day of the marriage itself. The general rule, culturally, is that these cattle may remain the property of the groom until such time that the marriage is consummated, at which point the cattle, including newly born calves, will then become the property of the parents of the bride.

### **5.3.3 The size and value of lobola**

- 5.3.3.1 Lobola shall principally consist of 10 (ten) head of cattle, or a higher number in multiples of two, and may sometimes be complemented by a sum of money.
- 5.3.3.2 In monetary terms, lobola shall be determined by the actual market price of livestock.
- 5.3.3.3 The advent of Western education among our people has brought with it great changes in the settlement of marriage agreements.
- 5.3.3.4 Modern parents who live in urban areas take the education of their daughters into consideration when settling lobola issues.
- 5.3.3.5 A daughter who was sent to university by her parents will demand far more than 10 (ten) head of cattle.
- 5.3.3.6 In certain cases, parents have demanded up to 20 (twenty) head of cattle for their daughter's lobola. Some cases shall no doubt be settled in the Community Court.

### **5.3.4 Payment of lobola**

- 5.3.4.1 All the cattle for the lobola must arrive before the marriage or on the day of the marriage.
- 5.3.4.2 Lobola cattle are received by relatives with ululation, with the men prancing around with axes, spears and sticks as if fighting in a war.

## **5.4 Marriage across tribal lines**

- 5.4.1 When a Motswana man marries a woman of another tribe, she shall automatically become a Motswana, and she shall learn the customs of her new parents.

- 5.4.2 The children born of such a marriage shall take the surname of their father and not that of their mother.
- 5.4.3 When a Motswana woman marries into another tribe, but the man decides to live among the Batswana, he shall practise the customs of the Batswana.

## 5.5 Divorce or dissolution of customary marriage

- 5.5.1 Divorce in traditional marriages is very rare; whenever it does take place, very few people hear of it. It should be borne in mind that customary marriage is based on an agreement between the bride's father/guardian and the groom or his father/guardian. The Traditional Authority is involved under certain circumstances. The same principle applies to the dissolution of the marriage. The Traditional Authority may be involved primarily to establish the real cause of any disagreements and to determine the possibility of reconciliation between the couple, or to decide on the legal implications, if any, of the dissolution, e.g. the return of the lobola and custody of the children. However, the Traditional Authority will not act in the capacity of effecting the dissolution.
- 5.5.2 The circumstances for divorce are many, and are often painful. In our culture, a man shall have grounds for divorce if his wife –
  - (a) is sterile
  - (b) constantly gets her husband into trouble by fighting with their neighbours
  - (c) is unfaithful
  - (d) is accused of practising witchcraft
  - (e) is lazy and does not take care of the home or her husband, or
  - (f) is a bad mother to her children and does not take care of them.
- 5.5.3 In our culture, the cattle paid for lobola shall be returned in the case of divorce.
- 5.5.4 In all divorce cases, the couple shall share their assets equally, unless mitigating circumstances dictate otherwise.

## 5.6 Inheritance

- 5.6.1 All children, whether born within or outside marriage, shall be included in a parent's last will and testament.
- 5.6.2 If a man is married, his wife shall also be included in his last will and testament.
- 5.6.3 The Traditional Authority shall promote the writing of wills and testaments among our people, so as to avoid tragedies and fights over inheritance.
- 5.6.4 If a man or woman dies intestate, then the Community Ccourt will deal with his/her estate as follows:
  - (a) The *Kgotla* shall divide his/her possessions among his/her heirs, starting with the eldest down to the youngest. If some of the children are grown up and already working, this shall be taken into account.
  - (b) If the children are still all minors, the *Kgotla* may hand them over to a responsible relative, who in turn shall report regularly to his/her Headman/-woman.



- (c) If the deceased had livestock, they shall be placed in the care of his/her parents if they are still alive or with relatives if they are not, until the children are grown up.
  - (d) Relatives who accept the responsibility of looking after orphans shall be registered by the *Kgotla*. Such relatives shall be held responsible for the education and health of the children.
- 5.6.5 The *Kgotla* shall respect the wishes of a deceased person's will.
- 5.6.6 The son of a man/woman shall not inherit his grandparents' wealth while his parents are both still alive, unless such wealth is directly bequeathed in a will.
- 5.6.7 If a man/woman bequeaths his/her wealth to some of his/her children in his/her will and cuts out others, the *Kgotla* shall intervene and contest the will on behalf of all excluded minor children, and a formula shall be worked out in cooperation with the children's relatives so that a just distribution can be made.

## **6. Becoming a Chief**

- 6.1 According to Batswana tradition and culture, a Chief (*Kgosikgolo*) shall inherit his status and position from his father and, thus, his ancestors.
- 6.2 The Councillors, Headmen, Headwomen, and other traditional leaders shall be elected or appointed by the Chief.
- 6.3 No person who is an alien or commoner shall be permitted to become Chief.
- 6.4 Custom demands that a son shall continue to bear his father's name into the future, something a daughter cannot always do.
- 6.5 The late Chief of the Batswana ba Namibia, Constans Letang Kgosiemang, carried the name of his ancestors. He was a direct descendant of the early leaders, who were themselves descendants of Morwe II, who had come to settle in Namibia in 1885.
- 6.6 A traditional leader may be installed as a Paramount Chief or King/Queen if s/he is a recognised leader over many Chiefs.
- 6.7 A traditional leader shall earn the respect of his/her people because s/he –
- (a) shall be a representative and spokesperson of the tribe in all matters that affect their lives
  - (b) shall always treat his/her people with respect
  - (c) does not usually travel around or sit in council at night
  - (d) shall generally be addressed by the personification of the community name, *Motlharo*
  - (e) shall have his/her praise-poems (*maboko*) in written form in the *Kgotla*, which shall be recited at all assemblies of the people
  - (f) may receive tribute from any of his/her subjects
  - (g) may ask the tribe to help to build him/her a house
  - (h) shall be accompanied by a Headman/-woman wherever s/he goes, and
  - (i) shall be held responsible for maintaining law and order among his/her people.

## **6.8 Inauguration of a Batswana Chief**

6.8.1 When the elders have nominated a new candidate from among the children of the Royal House to assume the chieftainship, the following procedure shall be followed:

- (a) Elders, traditionalists<sup>9</sup> and people of royal blood shall gather at an appointed place, normally at the Mokala in Aminuis, for formal consultation.
- (b) Elders and traditionalists may open the discussions by pointing out the urgent need of the people to have a traditional leader, a Chief, who should lead his/her people.
- (c) The elders shall nominate a possible candidate who has good qualities desired by the people.
- (d) Once an agreement is reached, relatives such as uncles and aunts who are present shall go into caucus to discuss, in hushed tones, the major issues that need to be addressed.
- (e) The elders and Headmen shall then go to their villages to hold counsel with their own communities.
- (f) During the village consultations, the candidate's relatives shall prepare him/her for his/her new role as traditional leader, which shall involve a rigorous, time-consuming familiarisation with regard to the various aspects of Batswana culture and traditions.
- (g) When all the people have been thoroughly consulted and informed about the various issues, a date for the inauguration shall be set.

## **6.9 The relatives' role in the inauguration process**

- 6.9.1 Close relatives of the person to be made Chief shall arrange various customary rituals by which the candidate is to be cleansed and purified, spiritually strengthened, and mentally prepared to be able to stand before his/her people with confidence.
- 6.9.2 Traditional healers shall play an important role during such a time, which can take several days or weeks.
- 6.9.3 If the candidate is married, s/he and his/her spouse can be taken to other tribes privately to meet other Chiefs for advice, especially tribes who share the same Batswana customs.

## **6.10 The inauguration ceremony**

- 6.10.1 Once everything is ready and all the elders and traditionalists are satisfied that they have made the right decision, the following steps shall be taken:
- (a) Announcers shall run from village to village announcing the good news of the inauguration ceremony.

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9 Traditionalists are experts of the culture (*ngwao*). Not every elder necessarily knows the culture and traditions of the people.

- (b) Invitations shall be sent to other Chiefs in the area.
- (c) The Chief-designate shall be confined to a secret place by close relatives until the final day.
- (d) If the Chief-designate is married, such confinement shall include his/her spouse.
- (e) Senior Councillors shall carefully select the cattle to be slaughtered for the feast.
- (f) Praise-singers who know the traditions and the praises of the candidate's totem well shall be selected and tested by Headmen/-women.
- (g) In the week of the inauguration, beer shall be brewed from sorghum.
- (h) The day before the inauguration ceremony, cattle shall be slaughtered and the meat carried to the Community Court.
- (i) Singers and dancers shall gather at the royal kraal and drummers shall begin the festivities. They shall sing and dance into the night.
- (j) Early in the morning of the inauguration, the elders shall perform the traditional ritual, namely the ceremony of making offerings to the ancestors.
- (k) Beer, blood and snuff are usually poured onto a selected place in the *Kgotla*, while the elders lead the relatives in an intercession.
- (l) The names of heroes and heroines long gone shall be mentioned and they shall be asked to bless the new traditional leader, and favour him/her with good fortune, and for his/her reign to bring forth abundant rain and food.
- (m) The selected group of elders shall then move to the throne, the seat of the new traditional leader, where s/he shall be crowned.
- (n) While the Chief is being adorned and having his/her head covered by a full-size leopard skin, the skin of royalty, the crowning elder shall chant words of wisdom and strength, while cursing all evil spirits, with these words:  
"Eyaaa! I crown you with the garment of your fathers, the leopard, king of all predators. I install you in the Chieftainship of Morwe II and all those who have long gone to our ancestors."
- (o) The new traditional leader shall then be presented to the people in public. The women shall ululate when the Chief is presented with the royal staff by the Chief Councillor, who says –  
"This is the staff with which you shall protect your tribe and your Traditional Authority. Let no one ever touch it except the person who shall follow in your footsteps in future."
- (p) The Chief shall go with the elders to the royal lapa and be seated on the throne while there is rejoicing and more ululation.
- (q) Guests of honour shall take turns to congratulate the new Chief and to wish him/her well, while a praise singer shall keep reciting the royal praise of the *Batlharo*, introducing the new Chief, and calling all the people to come and witness the great event.
- (r) The people shall kneel down to acknowledge the new leader of their tribe.
- (s) The festivities shall then begin in earnest, and performers shall commence with dancing and singing.

- (t) Beer and food shall be served to the people.
- (u) The Chief shall be entertained by traditional dancers with invited guests and other dignitaries as the audience.
- (v) Gifts shall then be presented by delegations from individuals, other tribes or friends.
- (w) The Chief Councillor shall present an assegai and a shield to the new ruler, the symbol of a warrior who is prepared to protect his/her people, stating the following words:  
“Take this spear. Henceforth from today, you are a warrior who fights for your people.”
- (x) An elder shall then place a large shield in the Chief’s left hand with the following words:  
“A warrior depends on his/her shield. Let it serve you to protect your people. A warrior must rely on a shield for protection.”
- (y) The praise singer shall then deliver another rendition of the royal house *Batlharo* poem (see pp 130–131 for the Praise Poem in Setswana).
- (z) The elder shall then turn to the people and say:  
“Hail your new chief! Pula!”  
to which the people shall respond:  
“Pula! Pula! Pula!”

6.10.2 The new Chief shall then address the people.

## 6.11 The Chief’s personal advisors

- 6.11.1 The Chief shall have a group of elders as advisors, the Council of Elders, who help him/her to run the affairs of the tribe. S/he shall consult his/her personal advisors privately and informally. The Chief’s advisors may even attend important meetings if the need arises. If the Chief is away or ill, his/her heir or close relative shall represent him/her.
- 6.11.2 Some of the Chief’s advisors (*ditona, dikala tsa kgosi*) shall also –
  - (a) help him/her to hear and judge cases
  - (b) supervise the execution of his/her judgements
  - (c) carry important community messages to government, and
  - (d) liaise with the Secretary of the Community Court to organise inaugurations of new Chiefs, Councillors, marriages, funerals, feasts and workshops.

## 6.12 Powers and functions of a Chief

- 6.12.1 Traditionally, Chiefs and Headmen/-women had limitless powers over their subjects. They could order a person to be banished from the tribe, or even to be executed, sometimes because of jealousy. A rich man or a man with many beautiful wives in the tribe was always a target for a Chief who wanted to own everything. Modern living, and the freedoms entrenched in the Namibian

Constitution, are a guarantee that Chiefs and Headmen shall rule their people with respect and justice.

6.12.2 The Chief's main functions shall be to –

- (a) make traditional laws for his/her people, as long as such laws do not contradict the Namibian Constitution
- (b) acquire and allocate land for his/her people
- (c) help prospective farmers to get loans and any other assistance they may need
- (d) involve the community in development projects which empower them and enhance their lives
- (e) help women to rise up above the pseudo-slavery in which they find themselves
- (f) get children and the youth to go to school
- (g) promote health among the people and cooperate with the relevant government Ministry on health issues
- (h) fight crime and ensure that criminal elements are brought to justice
- (i) encourage the youth to become AIDS-aware and to change their lifestyles
- (j) use his/her position to foster responsible drinking habits and avoid alcohol abuse
- (k) use his/her position to fight the use of drugs among the youth, and
- (l) use the Traditional Authority to foster good African and Batswana customs.

6.12.3 The Chief shall have the power to –

- (a) arrest criminals and hand them over to the Namibian Police
- (b) establish his/her own tribal police force
- (c) impose fines on cases that can be heard by the Community Court
- (d) approve applications for trading licences in his/her area
- (e) allocate land to any of his/her people in cooperation with the government
- (f) hear cases concerning marriage, divorce and inheritance
- (g) make agreements with other Chiefs on traditional/cultural matters
- (h) draw ward boundaries in his/her area of jurisdiction
- (i) confer titles on deserving citizens, e.g. Senior Headman/-woman, Village Praise-singer, or Headman/-woman, and
- (j) appoint or dismiss Councillors when the need arises.

## **7. Wards and sections**

### **7.1 General background**

7.1.1 The Batswana live in wards and sections that are not necessarily family-centred, which they used to be long ago.

7.1.2 Originally, the ward (*kgoro*) was a patrilineal body of people forming a distinct social administrative unit under the authority of a hereditary Headman; today, a Traditional Councillor is an elected leader.

- 7.1.3 Wards vary in size according to the number of people living in the village.
- 7.1.4 The Batswana Traditional Authority has determined that Senior Councillors shall be identified and appointed to head villages with a high concentration of inhabitants, and to serve in the *Kgotla*.
- 7.1.5 The Senior Councillors' abilities and capacity for responsibility shall determine their status in society.
- 7.1.6 The number of people in a village shall determine the status of a traditional leader.
- 7.1.7 Each ward shall have its own name, and shall have a small Community Court to cater for the needs of the local people.
- 7.1.8 Cases of a minor nature shall be dealt with by the Councillor, who shall keep records of all offenders, their individual cases, and the fines imposed.
- 7.1.9 In the ward, people refer to each other as *ba gaetsho/batshweneng/ditshwene* (something similar to *countrymen, villagers, people of my home*, or simply, *my people*).
- 7.1.10 Members of the ward's Community Court shall be grouped together at community feasts and important community meetings, where they shall occupy important seats at such occasions, although they shall sit according to rank.
- 7.1.11 The wards shall be responsible for the promotion of culture in their areas, and shall collect any taxes that may be imposed by the *Kgotla*.
- 7.1.12 The following wards shall be established with their full traditional responsibilities:
  - (a) Aminuis
  - (b) Corridor
  - (c) Epukiro/Metsweding
  - (d) Gobabis
  - (e) Tjaka
  - (f) Windhoek

## **7.2 Election of Councillors and Headmen/-women**

- 7.2.1 The ward shall gather at a meeting called by a Senior Headman/-woman from the *Kgotla*.
- 7.2.2 The meeting shall have one item on the agenda: "Election of Ward Headman/-woman".
- 7.2.3 The people shall nominate three candidates from their midst.
- 7.2.4 The meeting shall then be adjourned for four weeks.
- 7.2.5 During the adjournment, the names of the three candidates shall be circulated to all the wards of the tribe, as well as to the relevant Ministry, so that objectors can come to the *Kgotla* to lodge their objections.
- 7.2.6 After four weeks, if there is no opposition to the three names, the ward shall resume their meeting.
- 7.2.7 The election shall take place by secret ballot, i.e. everyone present shall write his/her choice on a piece of paper, and shall then put it into a ballot box designed for the election.

- 7.2.8 The Secretary of the *Kgotla* or any Councillor assigned to the election shall announce the election result.
- 7.2.9 The winner shall become the new Headman/-woman of the ward, and shall represent the ward at all important community functions, meetings and festivities, as well as at meetings with government officials.

### **7.3 Councillors' duties**

- 7.3.1 The duties of Councillors are as follows:
- 7.3.1.1 Councillors shall see to it that laws passed by the *Kgotla* are implemented.
  - 7.3.1.2 Councillors shall assist the Chief in the general administration of the tribe.
  - 7.3.1.3 A Senior Councillor shall act in the place of the Chief during his/her absence.
  - 7.3.1.4 Councillors shall attend regular meetings at the *Kgotla*.
  - 7.3.1.5 Councillors shall report back to their communities at regular intervals.
  - 7.3.1.6 Councillors shall serve all members of the community fairly.
  - 7.3.1.7 Councillors shall be on the lookout for alcohol and drug abuse in their areas of jurisdiction at all times.
  - 7.3.1.8 Councillors shall attend the funerals of the people they serve.
  - 7.3.1.9 Councillors shall respect office hours.
  - 7.3.1.10 Councillors shall assist the police with their work in fighting crime.
  - 7.3.1.11 Councillors shall attend all official functions whenever they are invited.

### **7.4 Powers and duties of the Village Headman/-woman**

- 7.4.1 The Village Headman/-woman shall have the power to –
- (a) deal with minor cases such as the theft of a goat in his/her area.
  - (b) arbitrate between arguing parties in a marriage or inheritance issue.
  - (c) allocate farmland in his/her area.
  - (d) arrest criminals and hand them over to the police.
  - (e) maintain law and order in his/her area.
  - (f) maintain the laws of conservation in his/her area.
  - (g) promote the culture of his/her people at all times.
  - (h) organise and facilitate the official registration of births, voters, etc.
  - (i) provide facilities, where possible, for public servants performing government duties in his/her ward, and
  - (j) represent the Chief in all traditional matters in his/her ward.
- 7.4.2 A Village Headman/-woman shall –
- (a) attend meetings at the request of the Chief and report back to the village.
  - (b) respect the confidentiality of his/her office.
  - (c) be impartial.
  - (d) not be guilty of alcohol or drug abuse.
  - (e) represent the Chief at funerals and other important functions.
  - (f) be punctual.
  - (g) avoid bribes.

- (h) announce community or government notices, and
- (i) assist conservationists in his/her area.

## **7.5 Removal of a Councillor or Village Headman/-woman**

- 7.5.1 If the community has reason to believe that their Headman/-woman or Councillor is not doing his/her work or does not meet their expectations, then the following procedure shall be followed:
- (a) The community shall call in a Senior Councillor of the *Kgotla* to address their problem.
  - (b) The Senior Councillor shall take their grievances to the *Kgotla* if there is no solution.
  - (c) The *Kgotla* shall convene a meeting of the Council of Elders (*Khuduthamaga*) to discuss the matter.
  - (d) If the Councillor or Headman/-woman is found guilty of malpractice, then s/he shall be summarily dismissed from his/her position.
  - (e) The accused shall have the right to acquire the services of a legal representative to lodge an appeal.

## **8. The death and burial of a Chief or any traditional leader**

- 8.1 According to Batswana tradition and culture, a Chief is buried by relatives, secretly, in his/her hut, at night. This was done in order to avoid the possible theft of the Chief's body by traditional healers.
- 8.2 This practice is still carried on in certain parts of what can still be regarded as the original traditional kingdom of the Batswana. With the advent of modern living, Chiefs can be buried in ordinary cemeteries. Other African tribes place guards around the grave for at least two weeks until the corpse has fully decomposed. There are still many customary rituals and practices that are followed whenever a Chief is to be interred. Normally, the African traditional ceremonies come first before Western 'church' procedures are considered.
- 8.3 The following is a short version of the process that shall be followed in the burial of a Chief:
- (a) When a Chief dies, a Headman/-woman shall be sent to the relatives who shall be the first to be told. The message is usually "The head has left us".
  - (b) A Senior Councillor who is a relative shall make the announcement by radio to the people.
  - (c) All Headmen/-women shall then gather at the *Kgotla*.
  - (d) A Senior Councillor or relative shall inform the *Kgotla* of the cause of death.
  - (e) Messages shall be sent to other tribes to inform them.
  - (f) The *Kgotla*, together with relatives, shall decide on a date for the funeral.
  - (g) A special animal, normally a bull or ox which the late Chief loved, shall be selected for the funeral.



- (h) The people shall visit the *Kgotla* daily to pay their respects and offer their condolences.
- (i) The Minister responsible for Traditional Authorities shall be informed of the death and funeral.
- (j) Special radio bulletins shall be issued regularly to inform the people about the funeral arrangements.
- (k) The night before the funeral, the Chief shall lie in state.

#### **8.4 The vigil and funeral of a Chief**

- 8.4.1 The Chief shall lie in state in the *Kgotla*.
- 8.4.2 Dignitaries and other very important leaders and persons shall be given the opportunity to make their condolence speeches.
- 8.4.3 The people shall pray throughout the night.
- 8.4.4 In the morning, the coffin shall be brought into the outer lapa of the *Kgotla* for viewing.
- 8.4.5 If the deceased was Christian, then Christian rites shall be performed.
- 8.4.6 A relative shall then present the eulogy of the deceased.
- 8.4.7 The funeral cortege shall then start with family members following it, then the *Kgotla*, and then the people, on their way to the final resting place.
- 8.4.8 At the graveside, further Christian rites shall be performed.
- 8.4.9 A family member or Senior Headman/-woman shall thank the people, after which only the family and the dignitaries shall remain, with a group of Headmen and Headwomen specially selected to cover the grave.
- 8.4.10 A small traditional ceremony shall then be performed.
- 8.4.11 The family shall then supervise the closing of the grave by the selected Headmen and Headwomen.
- 8.4.12 A traditional healer shall 'seal' the grave if need be (in Christian funerals, traditional healers are no longer used to 'seal' a grave).

#### **8.5 The removal/deposition of a Chief**

- 8.5.1 Certain circumstances can bring about the downfall, resignation, retirement or deposition of the Chief. The Council of Elders shall always prevail in such circumstances.
- 8.5.2 When a Chief is no longer on the throne, someone shall succeed him/her.
- 8.5.3 If there is no successor available in the Royal House, or if such successor is still under age, then a Regent may be appointed to the throne.
- 8.5.4 A Regent shall be a relative who rules in an acting capacity until the rightful heir has come of age to take over.
- 8.5.5 If there is no one available to take over as Regent, a close relative shall be appointed as Acting Chief until an heir is available.
- 8.5.6 Furthermore, the Chief shall be removed from his/her throne if two thirds of the members of the Traditional Authority and the Royal Lotlhare House adopt a resolution impeaching the Chief on grounds that s/he is guilty of a serious

violation of the laws of our country or otherwise guilty of such gross misconduct as to render him/her unfit to hold office with dignity and honour as the Chief of the Batswana ba Namibia.

## **8.6 Procedure for the removal/deposition of a Chief**

- 8.6.1 Generally, the Chief shall be accorded all the respect due to him/her.
- 8.6.2 However, should the people feel the need to remove their Chief for one or other legitimate reason, the correct procedures for doing so shall be followed.
- 8.6.3 The following steps shall be taken:
  - (a) The Council of Elders shall call a secret meeting to try to advise the Chief in private, to heed their warning on the matter of his/her wrongdoing.
  - (b) The Council of Elders may call in the assistance of a friendly neighbouring Chief to help in the discussions.
  - (c) If the Chief does not pay any heed to advice, the Elders shall take the instruments of kingship, i.e. the leopard skin, the Chief's chair/seat and the staff of leadership.
  - (d) The Elders shall then declare in public that the Chief has been dethroned.
  - (e) A new ruler shall be sought in the Royal House or among relatives of royal blood.

## **8.7 Succession to the chieftainship**

- 8.7.1 Normally, the Chief shall be succeeded by the eldest son of his first wife, who is regarded as the mother of the tribe, that is, if he is married to more than one wife. If the Chief is a woman, her eldest son or daughter shall succeed her.
- 8.7.2 If the heir apparent is still too young to ascend the throne, his/her uncle or aunt (the Chief's father's younger brother or sister) shall act as the Regent until the heir reaches adulthood.
- 8.7.3 Should the royal family fail to produce an heir capable of ruling the tribe, then the tribe shall have no Chief.
- 8.7.4 This status shall be declared by the Regent not wearing the leopard skin on his/her shoulders.
- 8.7.5 This situation shall remain until such time as a solution to the impasse is found in the Royal House.

## **9. The tribal court or *Kgotla***

### **9.1 General background**

- 9.1.1 This is the home of the Chief, his/her relatives, Headmen/-women, Councillors (advisors) and servants. Although, historically, the only available medical person at the *Kgotla* was the age-old traditional healer, with the coming of modern civilisation, the *Kgotla* was the first place that was considered for the establishment of a clinic.

- 9.1.2 From the beginning of recorded history, the Batswana have developed and maintained a system of law and order among their people.
- 9.1.3 The system consisted of the establishment of a *Kgotla* 'police force' of men and women, whose main task was to carry out the orders of the Chief and Headmen/-women.
- 9.1.4 These lawmen and -women were also messengers of the *Kgotla*, bearing their messages to various areas as well as to other tribes.
- 9.1.5 Whenever a wrongdoer was required to appear before the *Kgotla*, the tribal 'police' were dispatched to bring him/her in.
- 9.1.6 Originally, the Batswana *Kgotla* was the seat of government and the de facto dispenser of all the social needs of the people. Today, all this has changed due to modern life and Western democracy. Individual rights form the basis of law and order now, and not even the Chief is permitted to chain a person to a tree as punishment, as it was done ages ago.
- 9.1.7 Today, men and women shall sit together in the *Kgotla*.

## **9.2 Composition of the *Kgotla***

- 9.2.1 The *Kgotla* shall be headed by the traditional leader, who is the Chief.
- 9.2.2 Selected Councillors shall serve as personal advisors to the Chief.
- 9.2.3 Major issues shall first be discussed with the personal advisors before being referred to the *Kgotla*.
- 9.2.4 The Chief's personal advisors shall form a tribal committee referred to as a *Khuduthamaga*.
- 9.2.5 Decisions taken by the *Kgotla* in all matters shall be final.

## **9.3 Powers of the *Kgotla***

- 9.3.1 The modern *Kgotla* shall exercise the following powers:
  - (a) Promote the good in Batswana culture and raise well-disciplined children
  - (b) Promote respect for Batswana culture among the people so that there is continuity
  - (c) Hear cases and pass judgement on wrongdoers in Batswana society
  - (d) Administer punishment to wrongdoers
  - (e) Impose fines on cases within their jurisdiction
  - (f) Depose the Chief if s/he no longer serves the interests of the tribe
  - (g) Conclude agreements on traditional issues with other tribes, and
  - (h) Impose some form of taxation among the people.

## **9.4 The *Kgotla* Secretary**

- 9.4.1 The *Kgotla*, in its various responsibilities towards the people, shall appoint a qualified person to act as Secretary of the tribe.
- 9.4.2 S/he shall have a broad base knowledge of administrative matters, and shall have responsibilities inside as well as outside the *Kgotla*.

## 9.5 Duties and functions of the *Kgotla* Secretary

### 9.5.1 The Secretary shall –

- (a) record and keep records of all proceedings of the *Kgotla* sessions
- (b) complete forms or cause forms relevant to *Kgotla* proceedings to be completed
- (c) deal with the remuneration of Headmen/-women
- (d) record fines imposed in the *Kgotla* and place these in safekeeping
- (e) publish important statements of the *Kgotla* in the press
- (f) place *Kgotla* advertisements in newspapers
- (g) draw up the daily agenda for the *Kgotla*
- (h) keep a record of all the *Kgotla*'s livestock paid to it in fines
- (i) keep a filing system of all relevant *Kgotla* data
- (j) arrange all meetings with government Ministers and officials and with other tribes
- (k) place advertisements to publicise projects in which the *Kgotla* asks for aid
- (l) appoint committees to deal with various community projects
- (m) arrange livestock sales for the farmers in order to get better deals for their animals
- (n) deal with all correspondence for the *Kgotla*
- (o) keep a register of all births in the tribe
- (p) call the people to order when the Chief and Headmen/-women enter the *Kgotla*
- (q) organise the inauguration of the Chief and Councillors, and
- (r) keep a record of marriages, divorces, funerals, feasts and workshops.

## 9.6 Registration and administration of civic affairs

### 9.6.1 Birth register

- (a) The *Kgotla* shall at all times keep a record of births in order to inform itself and the government about the population growth.
- (b) Babies not born in clinics or hospitals shall be reported to the *Kgotla* immediately, so as to register their births and inform the relevant state Ministry about them.
- (c) Failure to report such births shall be an offence for which the offender may be fined up to N\$50 (fifty Namibia Dollars), or such fine as may be determined by the *Kgotla* from time to time.
- (d) It shall be the duty of every mother and father to report the birth of their newborn baby.
- (e) The *Kgotla* shall keep a file and record –
  - (i) the date, time and place of the birth
  - (ii) the names of the parents of the baby
  - (iii) the name of the newborn child, and
  - (iv) the name of the Headman/-woman in whose area the birth took place.

- (f) A fee of N\$10 (ten Namibia Dollars) or such other fee as may be determined by the *Kgotla* from time to time shall be paid by the parents for the registration of a birth.
- (g) If the birth took place in a recognised government institution such as a clinic or hospital, the parents shall report the birth to the *Kgotla*, and the Secretary shall request a copy of the birth record from the institution concerned for the *Kgotla*'s own records.

### **9.6.2 Death register**

- (a) Deaths are highly respected events in Batswana society and shall be dealt with as such.
- (b) The *Kgotla* shall be responsible for keeping a record of the death of any member of the tribe.
- (c) Deaths due to road accidents, murders, drowning, illness, or when handling animals, as well as while giving birth in the *Kgotla*'s area of jurisdiction, shall be reported immediately to the Secretary.
- (d) Failure to report a death in time is a serious offence and the offender shall be fined N\$100 (one hundred Namibia Dollars) or such other fine as may be determined by the *Kgotla* from time to time.

## **9.7 Community vigils**

- 9.7.1 It is traditionally accepted Batswana practice to hold vigils to mourn their deceased. Vigils are common whenever a death has occurred among our people. Relatives and friends come together to mourn a loved one who has died.
- 9.7.2 Our people shall, whenever a vigil has to be held, inform the local Headman/-woman of the arrangement.

## **9.8 Funerals**

- 9.8.1 The conduct of funerals is the prerogative of relatives of the deceased. They follow the law of the land in so far as a death certificate, police declaration, or other relevant documentation is required. As it is normal for Headmen/-women to attend community funerals, it is an accepted practice for the *Kgotla* or Village Headman/-woman to be informed whenever a funeral will take place.
- 9.8.2 If the deceased died of unnatural causes and it is found that somebody was responsible for the death, the *Kgotla* shall demand that the accused or his/her relatives shall be held partly responsible for the funeral arrangements.
- 9.8.3 In the case of funerals of Headmen/-women, the Chief shall also attend if s/he chooses to do so.
- 9.8.4 The Chief shall not be required to attend the funerals of his/her subjects in person, but s/he shall delegate the Secretary of the *Kgotla* or a Senior Councillor to attend on his/her behalf.

## 9.9 Traditional Feast Day

- 9.9.1 The Batswana are generally highly sociable and hold elaborate traditional feasts, functions and entertainment events. Food and Setswana beer is normally prepared for every occasion, including such occasions as showing off a baby to the public (*Go ntsha losea mo tlung*, literally “Bringing of a child into the public”). The Batswana are great singers, so their feasts are graced with music, dance and praise-singing. Weddings bring people from far and wide for feasting and celebrating.
- 9.9.2 The Batswana celebrate an annual feast day to commemorate the establishment of the *Kgotla* centuries ago at Mokaleng (Aminuis).
- 9.9.3 This feast day is celebrated in early spring during the second half of the year, and shall be called *Morwe II Day*. The shooting of trees and other plants heralds the renewal cycle of nature. Our people also renew themselves in giving thanks for their life, health and well-being.
- 9.9.4 The feast shall be held, as of old, at the Aminuis *Kgotla*.
- 9.9.5 The feast shall be celebrated in spring during the months of September/October as a day of thanksgiving.
- 9.9.6 Only the Traditional Authority shall have the right to stage the Traditional Feast Day.
- 9.9.7 All manner of entertainment shall be arranged through the Secretary of the *Kgotla*.
- 9.9.8 The *Kgotla* Secretary shall be responsible for drawing up the programme for the day’s proceedings.
- 9.9.9 The day’s events shall begin with a visit to the graves of our ancestors to pay respects.
- 9.9.10 People from other tribes shall be invited to the festivities.

## 10. Law and order and judicial procedure

- 10.1 The Batswana distinguish between *criminal* and *civil* law in practice, but not in theory. *Civil law* deals with the rights of the people in such matters as personal status, property and contracts. It provides for redress when such rights are violated, and restitution or compensation is to be paid.

### 10.2 The Community Court

- 10.2.1 In terms of the Community Courts Act, 2003 (No. 10 of 2003), Clerks and Secretaries have a dual responsibility regarding the administration of Community Courts.
- 10.2.2 All duties and responsibilities are clearly set out in the applicable legislation, which shall be complied with at all times.

### 10.3 Clerk of the Community Court

10.3.1 The Clerk of the Community Court shall be the Receiving Officer at any Community Court, which office shall have the following practical duties and responsibilities:

- (a) Receiving all correspondence
- (b) Filing all documents received
- (c) Receiving cash or payments in kind
- (d) Making photocopies for the public for a fee
- (e) Issuing receipts
- (f) Reflecting all the transactions that take place on a daily basis in the applicable books
- (g) Completing all processed documents for court sessions
- (h) Paying salaries
- (i) Taking stock
- (j) Drawing up the applicable accounting books
- (k) Depositing cash received, and
- (l) Maintaining all registers and prescribed books in an orderly manner.

### 10.4 Civil wrongs

10.4.1 The principal civil wrongs recognised by the Batswana Traditional Authority are as follows:

- (a) *Seduction*: Tempting others to do wrong or to lead to others astray
- (b) *Adultery*: Voluntary sexual intercourse between a married person and someone other than his/her spouse
- (c) *Theft*: Taking someone else's possessions without permission
- (d) *Breach of contract*: Breaking an agreement arbitrarily with injury to the other party
- (e) *Trespassing*: Making an unlawful or unwarranted intrusion on other people's rights or property
- (f) *Damage*: Making a woman pregnant; destroying other people's property
- (g) *Defamation*: Speaking ill of someone; attacking someone's good reputation; spoiling someone's good name
- (h) *Pregnancy*
- (i) *Abortion*
- (j) *Divorce*

### 10.5 The conduct of trials

10.5.1 An aggrieved person shall first try to settle his/her problems privately, outside of the *kgotla*.

10.5.2 If there is no agreement, the aggrieved person shall lodge a complaint with the Ward Headman/-woman.

10.5.3 A date shall be set for the hearing of the case.

- 10.5.4 The Ward Headman/-woman shall first conduct a preliminary investigation.
- 10.5.5 If the matter is of a serious nature, it shall be referred to the *Kgotla*.
- 10.5.6 The Secretary of the *Kgotla* shall immediately place the case on the roll for the next hearing, while at the same time allowing sufficient time for the parties involved and their witnesses to prepare themselves.
- 10.5.7 All those involved shall gather early on the day of the hearing at the *Kgotla*.
- 10.5.8 The Community Court shall open at 09:00 from Monday to Friday.
- 10.5.9 The accused shall sit facing the judge and the plaintiff.
- 10.5.10 Witnesses shall also sit in for the case from the start in order to hear the full evidence.
- 10.5.11 As all trials are conducted publicly, any person over the age of 18 shall be allowed to attend.
- 10.5.12 When minor children are involved, the case shall be held in camera with only three adults attending.
- 10.5.13 After the introduction of the case by the traditional judge, the plaintiff and then the defendant shall be called upon to address the court.
- 10.5.14 The parties may then be questioned by anyone who wishes to do so.
- 10.5.15 The witnesses shall then also be questioned by any of the Councillors.
- 10.5.16 The matter shall then be thrown open for general discussion.
- 10.5.17 All those who wish to ask further questions shall be allowed to do so.
- 10.5.18 The judge's advisors shall also come in at this point to discuss the merits and demerits of the case.
- 10.5.19 The judge shall then summarise the facts of the case presented and the opinions expressed, and shall deliver his/her verdict.
- 10.5.20 If a case heard at a ward court is appealed, it shall be referred to the *Kgotla*.
- 10.5.21 For a case to be successfully settled there shall be witnesses to such settlement.
- 10.5.22 In civil cases, the plaintiff shall have the right to tell the court what s/he demands as compensation.
- 10.5.23 Depending on the merits of the case, compensation may be awarded in full as claimed, or a part thereof may be awarded.
- 10.5.24 Fines shall be imposed according to what is just in individual cases.
- 10.5.25 Serious crimes shall be dealt with only by the *Kgotla* and/or the police.
- 10.5.26 The *Kgotla* shall not be required to sit on weekends or public holidays.

## **10.6 Judgement of cases and fines**

### **10.6.1 Civil cases**

#### **10.6.1.1 Seduction**

- (a) A person may be accused of and charged with seduction if s/he has –
  - (i) tempted or seduced a woman, a girl or a child to have sexual intercourse with him/her.
  - (ii) persuaded someone, by forceful means, threats or otherwise, to commit a crime.



- (iii) bribed someone to participate in committing, or allowed someone to commit, an offence, or
- (iv) used his/her position to access favours while committing an offence in the process.
- (b) Any person found guilty of having seduced someone to commit an offence shall be fined –
  - (i) 5 (five) head of cattle in the case of adultery
  - (ii) 4 (four) head of cattle in the case of a woman
  - (iii) 20 (twenty) years' imprisonment in the case of seducing a minor
  - (iv) 3 (three) head of cattle in the case of corruption, or
  - (v) 5 (five) head of cattle in the case of using the Chief's or Headman/-woman's position to gain favours.

#### 10.6.1.2 Adultery

- (a) Adultery involves sexual intercourse between two consenting married adults who are married to other partners. This is a serious matter in Batswana customary law as it often leads to serious consequences and even tragedy. People caught in compromising circumstances by their spouses are sometimes killed on the spot or maimed for life. Customarily, men were allowed to marry more than one wife to minimise the possibility of ever getting into trouble by committing adultery. However, modern living abhors such practices.
- (b) A man found guilty of having committed adultery shall be fined 5 (five) head of cattle, and the woman shall be fined 3 (three) head of cattle. Four of the head of cattle fined shall be handed over to the plaintiff, and 1 (one) shall be taken by the *Kgotla*.
- (c) Should the offence be committed for a second time, the adulterer shall be fined 10 (ten) head of cattle, and the adultress 5 (five). Twelve of these animals shall be given to the aggrieved person, and 3 (three) shall become the property of the *Kgotla*.

#### 10.6.1.3 Theft

- (a) This can involve the stealing of either big or small items. All theft cases shall be judged according to the value of the goods stolen.
- (b) Any person found guilty of having stolen goods shall –
  - (i) pay the plaintiff an amount of money equal to the value of the item stolen, but not for items valued at more than N\$10,000 (ten thousand Namibia Dollars).
  - (ii) for an item valued at over N\$10,000 (ten thousand Namibia Dollars), pay the plaintiff an amount equal to the value of the item stolen, plus N\$100 (one hundred Namibia Dollars) for every N\$1,000 (one thousand Namibia Dollars) above the N\$10,000 (ten thousand Namibia Dollars). Thus, if the item stolen was valued at N\$12,000 (twelve thousand Namibia Dollars), N\$12,200 (twelve thousand two hundred Namibia Dollars) shall be paid; if the item stolen was valued at N\$15,000 (fifteen thousand Namibia Dollars), N\$15,200 (fifteen thousand two hundred Namibia Dollars) shall be paid.

Dollars), N\$15,500 shall be paid (fifteen thousand five hundred Namibia Dollars); etc.

- (iii) if the item stolen was livestock, pay two head of cattle for each head stolen, and two goats or sheep for each goat or sheep stolen. Thus, if one head of cattle was stolen, two head shall be paid back; if two head of cattle were stolen, four shall be paid back; if one goat was stolen, two goats shall be paid back; if one sheep was stolen, two sheep shall be paid back as compensation; etc.
- (c) If the stolen item has since been sold, the court shall establish the sale amount and the profit made, and shall order the accused to pay the plaintiff an amount of money commensurate with all his/her losses plus a 10% (ten per cent) gain.
- (d) For all the points under 10.6.1.3(b) above, the accused shall pay the fine in kind if s/he is unable to pay it in cash.

#### **10.6.1.4 Breach of contract – Work agreements**

- (a) Someone may be said to be in breach of contract if s/he –
  - (i) fails to honour an agreement to perform a certain task for which s/he had either been paid in advance or for which an agreement was signed
  - (ii) fails to conclude a given task agreed to at an agreed time of completion
  - (iii) fails to deliver whatever has been agreed to between parties in a contract signed by both the parties
  - (iv) reneges on a promise given before witnesses to give work to someone, or
  - (v) makes promises to workers and later leaves them penniless and destitute.

#### **10.6.1.5 Breach of contract – Marriage agreements**

- (a) A person shall be in breach of contract if s/he reneges on a strong promise of marriage to someone, especially a written agreement or an engagement.
- (b) A man shall be in breach of contract if he lies about having cattle for lobola, and it is later proved that he does not.
- (c) A woman shall be in breach of contract if she signs a promise that she will marry a man and then later marries someone else.

#### **10.6.1.6 Trespassing**

- (a) This involves the unauthorised occupation or moving on to someone else's property. A man's cattle may stray onto someone else's land, or someone may stray onto someone else's property without permission. Naughty boys might trespass onto girls' facilities to have a laugh, or to embarrass them.
- (b) In traditional Batswana culture, trespassing circumstances occur when a person –
  - (i) enters the house of another person with the intention to steal, and is caught before committing the act

- (ii) walks across the field of someone without authorisation, which is very serious because it involves witchcraft, or
- (iii) strays onto someone else's property under false pretences.
- (c) Anyone found guilty of trespassing onto someone else's property shall pay a fine of one, two, three or four goats or sheep, depending on the seriousness of the offence.

**10.6.1.7 Damage**

- (a) The Batswana culture recognises damages to be paid to aggrieved parents whose unmarried daughter has been impregnated by a boy or a man.
- (b) A parent whose child has become pregnant even though she was a willing party in the sex act shall approach the court to lodge a claim for compensation. Such a claim is said to be to 'wipe away the tears' of the parent whose child could perhaps one day be married and whose chances of doing so may be marred by the impregnation.
- (c) Anyone found guilty of having impregnated a woman shall be fined two head of cattle.

**10.6.1.8 Defamation**

- (a) This means speaking ill of someone, or attacking the good character of someone. Common examples are –
  - (i) accusing someone of witchcraft
  - (ii) a girl pointing to the wrong man for having impregnated her
  - (iii) disrespect of one's elders, and
  - (iv) abusive language.
- (b) A case of defamation shall be defined as being when –
  - (i) an aggrieved person takes refuge to the Community Court to reclaim his/her good name
  - (ii) an aggrieved person requests a Headman/-woman or any senior person to take the matter to the *Kgotla*, or
  - (iii) villagers come together to deal with a similar matter on a family basis.
- (c) Any person found guilty of having defamed someone else in any way shall be fined two sheep or two goats.

**10.6.1.9 Pregnancy**

- (a) The parents of a girl or a woman who is impregnated shall have the right to settle the matter with the parents of the boy/man responsible.
- (b) If the girl/woman's parents find no relief, they may report the matter to the village Headman/-woman.
- (c) The parents of the impregnated girl/woman shall demand a minimum of N\$500 (five hundred Namibia Dollars), which they shall hand over to their daughter for safekeeping to buy the bare necessities when her child is born.
- (d) The *Kgotla* shall fine any boy/man who impregnates a girl/woman 3 (three) head of cattle as damages on her first pregnancy, known as

tigalebele, which shall be handed over to the girl/woman's parents as their property.

- (e) In the event of live cattle not being available, the person responsible for the pregnancy shall be ordered to pay a cash amount of N\$6,000 (six thousand Namibia Dollars).
- (f) If damages are claimed for a pregnancy other than the first, the impregnated girl/woman's parents shall claim 2 (two) head of cattle or a cash amount of N\$4,000 (four thousand Namibia Dollars).
- (g) Should the boy/man decide to marry the girl/woman, the cattle given as damages shall be included in the final settlement of the traditional lobola count.

#### **10.6.1.10 Abortion**

- (a) In the Batswana tradition and culture, abortion is taboo and was never condoned or accepted for any reason. Children are always welcome as a great asset to our society, and childless families never have peace of mind in their homes.
- (b) Abortion shall be dealt with severely where it is found to have been committed without the recommendation of a qualified medical practitioner or for reasons that involve life or death situations. The Batswana Traditional Authority espouses the right to life. Termination of pregnancies and baby-dumping will not be tolerated.
- (c) A person found guilty of having committed an abortion shall be fined 2 (two) head of cattle or N\$5,000 (five thousand Namibia Dollars).

#### **10.6.1.11 Divorce**

- (a) In Batswana culture, divorce is not a common occurrence. From time immemorial, married couples stayed married until death, especially when children were born of the marriage. It was the advent of Western so-called civilisation which brought with it a system of contract labour that separated men from their families for long periods. Our people soon started supporting two families: one in town, and another in the country. Later, men learned to divorce their wives in the country – for obvious reasons. Today, divorce among our people is as common as flu, which is an unfortunate social problem.
- (b) Anyone who wishes to get a divorce and approaches the *Kgotla* for this purpose shall –
  - (i) prove that s/he first dealt with the problem on a family basis to try to save the marriage, and
  - (ii) convince the *Kgotla* that there is no solution apart from dissolving the marriage.

## **11. Criminal law**

- 11.1 Criminal law treats certain acts which are harmful to the Batswana community in general as offences and deserving of severe punishment.

11.2 Formerly, the principal crimes recognised included the following:

- (a) Sorcery
- (b) Incest
- (c) Culpable homicide
- (d) Rape
- (e) Assault
- (f) Murder
- (g) Attempted murder
- (h) Abduction, and
- (i) Breaches of any law decreed by the Chief.

### **11.3 Sorcery**

This evil is very often associated with ritual murder for the sake of acquiring body parts for so-called medicinal purposes. Certain people in society are thought to possess great powers by which they can bring evil, misfortune, sickness and death, poverty and even hunger on unsuspecting victims. When people feel aggrieved and want to take revenge, they normally flee to those who are said to be powerful medicine men or women, who will, upon payment of a goat or even money, use their purported magical powers to bring evil and death to the enemies of their patients.

- 11.3.1 Traditional healers will mix certain potions, medicines, parts of snakes and wild animals, and even human body parts to enhance their powers. "I shall bewitch you!" is the normal threat made to those who are to pay the price. In certain cases, people who have committed serious crimes go to sorcerers who will kill people to obtain body parts for use in potions that should strengthen the criminals to face court with confidence and win their cases. As it is usually very difficult to prove a case of sorcery, the Traditional Authority cannot simply punish a person on the say-so of his/her accusers.
- 11.3.2 An accused person who, in the eyes of the community, practises sorcery shall produce the tools of his/her trade before the Community Court, i.e. charms, medicines, body parts, oils, fats and creams that usually go together with the practice.
- 11.3.3 Upon production of such items, the Community Court shall order an investigation into the activities of the accused, and witnesses shall be called.
- 11.3.4 The movements of the accused shall be curtailed, i.e. s/he shall be placed under arrest until the investigation is over.
- 11.3.5 All the evidence against the accused shall be kept in safe custody until the investigation is complete.
- 11.3.6 The Community Court shall order the accusers to present proof of practices of the alleged sorcery.
- 11.3.7 The Community Court shall order witnesses to give accounts of practical examples of what constitutes witchcraft in the African context.
- 11.3.8 Any person accused, and found guilty, of the practice of witchcraft shall be fined five head of cattle.

- 11.3.9 Any person found in possession of human body parts, whether or not s/he has been accused of witchcraft, shall be handed over to the Namibian Police for prosecution.

#### **11.4 Incest**

- 11.4.1 A case of incest involves sexual intercourse between near relations, at worst a parent who abuses his/her child sexually. The Rape Act shall be taken into account here. Cases of incest are as old as the hills, and are generally very difficult to detect if the victims do not report the abuse to a family member or draw attention to the continuous practice.
- 11.4.2 Of late in Namibia, there are almost daily reports of adults raping babies or young children to 'rid' themselves of HIV and AIDS, because they are apparently advised by witchdoctors to do so. Most, if not all, such crimes take place in the home, when the mother has gone out and a male relative remains with the children. The Batswana culture views incest in the same way as bestiality and cannibalism, and will have a man whipped and banished from the tribe for such a crime.
- 11.4.3 Anyone found guilty of the crime of incest shall be fined 10 (ten) head of cattle and shall be handed over to the law courts for sentencing to a stiff prison term. Eight of the cattle shall be given to the parents of the child to seek medical treatment, while 2 (two) shall remain with the Community Court.

#### **11.5 Culpable homicide**

- 11.5.1 Culpable homicide implies the killing of someone unintentionally or through negligence. This kind of crime takes place often, especially where people are at work, or through motor vehicle accidents on the road. Cases of culpable homicide, like murder, can only be dealt with by the High Court. However, the Batswana Traditional Authority also has a say in the matter.
- 11.5.2 Anyone found guilty of culpable homicide shall, at the conclusion of his/her sentence, appear accordingly before the Community Court, where the case shall be reviewed.
- 11.5.3 Anyone found guilty of gross negligence or of having exercised little or no care as a result of which life was lost shall, depending on whether or not the deceased was the breadwinner of his/her family, pay ten head of cattle to the mourning family to make up for their loss.
- 11.5.4 The Community Court shall take 2 (two) of the 10 (ten) head of cattle for court expenses.

#### **11.6 Rape**

- 11.6.1 Forced or illegal sexual intercourse with a woman or man constitutes rape. When there is a forced entry of the male organ, the penis, into the female organ,

- the vagina, without due consent, then rape is committed. The Rape Act shall be taken into account here as well.
- 11.6.2 A clear distinction shall be made in cases where the person being raped is a minor, i.e. the person is under the age of 18 (eighteen). In the case of a minor, the Community Court does not even entertain the thought that the victim could have consented to the act of intercourse, as age is the determining factor.
- 11.6.3 The 1990s saw a new wave of rape cases hitherto unknown even in the annals of traditional history in our country – the rape of innocents. The HIV and AIDS pandemic ushered in a new belief in treatment: the rape of napkin-wet babies to cure HIV and AIDS. Within a few years, adult persons throughout our country were raping innocent little children daily – ostensibly to find relief from HIV and AIDS.
- 11.6.4 Any person who is found guilty of an act of rape by the Community Court shall, before or after serving a prison term, be fined –
- (a) 5 (five) head of cattle in the event of the victim being a fully grown woman or man.
  - (b) 7 (seven) head of cattle in the event of the victim being a girl of 16.
  - (c) 10 (ten) head of cattle plus banishment from the area in the event of the victim being a baby or a child.
- 11.6.5 Extreme cases of rape shall be handed to the Namibian Police.
- 11.6.6 In all cases of rape, the accused shall be handed over to the law courts for sentencing to a prison term.

## 11.7 Assault

- 11.7.1 Cases of assault take various forms, depending on how the crime was committed. There are men who beat their wives for various reasons, and the victims report such beatings to the Community Court. Other cases of assault involve attacks with weapons such as sticks, clubs, axes or guns, which result in serious wounds.
- 11.7.2 *Assault* can be classified as follows:
- (a) *Common assault* is when the victim is not seriously injured, or has suffered superficial injury, and
  - (b) *Serious assault*, or *assault with intent to do grievous bodily harm*, is when there are serious wounds that require hospitalisation or stitches, for example.
- 11.7.3 Any person found guilty of common assault shall be fined 1 (one) goat or N\$500 (five hundred Namibia Dollars) for a first offence.
- 11.7.4 If the assault was directed at a woman, and the accused is a man, the accused shall be fined 3 (three) goats, 1 (one) of which shall be paid to the *Kgotla*.
- 11.7.5 Any person who is found guilty of serious assault shall, for a first offence, be fined 2 (two) head of cattle.
- 11.7.6 A person found guilty of committing assault with intent shall, for a first offence, be fined 3 (three) head of cattle.

## 11.8 Murder

- 11.8.1 *Murder* is the killing of one person by another. This can happen in very many ways, from being unintentional to being premeditated and cold-blooded. Traditionally, a person who murdered someone else was also killed, to apply the fair policy of an eye for an eye. With the dawn of Christianity, people realised that the policy was not always correct. Western values demanded that a person accused of murder be given representation to defend him-/herself. In this way, the courts looked at various mitigating circumstances in a murder case.
- 11.8.2 The Batswana *Kgotla* states unequivocally that a murdered person cannot be brought to life again and, as such, is a great loss to society in general and to his/her family in particular. In certain cases, the family breadwinner is killed, leaving children destitute. At the time when capital punishment was permitted, the murder victim's family was consoled by hanging the accused for his/her crime. Today, a person accused of murder shall be handed over to the Namibian Police to be judged in the High Court.
- 11.8.3 The *Kgotla*, after having investigated the case and found the accused guilty, shall –
- (a) await the return of the accused after s/he has served his/her prison term.
  - (b) call the accused to appear before the *Kgotla*.
  - (c) order the accused to pay 20 (twenty) head of cattle or a sum of N\$50,000 in monetary terms to the family whose breadwinner was killed.
  - (d) take 2 (two) head of the cattle fine.

## 11.9 Attempted murder

- 11.9.1 Throughout history, people have attempted to kill others for various reasons. Jealousy, revenge and silencing others have generally played a role.
- 11.9.2 People have commonly disliked those who were wealthier than they, and women have commonly featured where men were fighting.
- 11.9.3 Relatives have often been jealous of each other and have either employed the services of hit men or have murdered their victims themselves.
- 11.9.4 A person who is found guilty of attempted murder shall be fined 10 (ten) head of cattle.
- 11.9.5 The injured party shall be given 8 (eight) head of cattle.
- 11.9.6 The accused shall then be handed over to the state's courts of law for sentencing to a prison term.

## 11.10 Abduction (Kidnapping)

- 11.10.1 A case of abduction or kidnapping involves the illegal carrying away of a person to another destination. A child may be abducted in order to demand a ransom; a woman might be kidnapped for a ransom, to turn her into a sex slave, or to sell her. Kidnapping is such a serious matter that, in the past, our ancestors killed abductors on the spot whenever they caught up with them. A person who kidnapped others was regarded as a hyena: full of evil.



- 11.10.2 A person who is found guilty of the crime of abduction shall be fined 12 (twelve) head of cattle.
- 11.10.3 Thereafter, such a person shall be handed over to the state's law courts for sentencing to a prison term.

## **11.11 Minor cases that earn the ire of the Kgotla**

### **11.11.1 Public indecency**

- 11.11.1.1 Public indecency is often the result of having been brought up badly, or of someone being mentally deranged. A man or a woman might remove their clothing in public to exhibit their nakedness, for example. Public indecency includes voyeurism, i.e. watching people who are naked, perhaps while they are bathing, swimming or showering. A common display of public indecency would be an adult urinating in the street in full view of passers-by.
- 11.11.1.2 Any person found guilty of –
  - (a) relieving themselves in public shall be fined N\$100 (one hundred Namibia Dollars) for a first offence.
  - (b) peeping on others while they are naked in a bath, toilet or shower shall be fined N\$200 (two hundred Namibia Dollars).
  - (c) entering a private place meant for women only shall be fined N\$300 (three hundred Namibia Dollars).
- 11.11.1.3 In all cases of public indecency, persons found guilty shall be sentenced to do manual labour if they cannot afford a fine. Manual labour can include digging trenches, planting trees, fixing fences, painting around the *Kgotla*, and tanning.

## **12. The role of traditional healers and herbalists in society**

- 12.1 Many of our people still believe in using medicine to achieve what they otherwise fail to achieve by natural means. Medicines are used to take revenge or to pay back whatever evil was done to one. Medicines are also used to protect homes against evil spirits, fortify fields, make rain, and bewitch others.
- 12.2 Men and women are trained as diviners, herbalists, doctors and sangomas. Doctors are classified into two groups: horned and hornless. The former use divining bones to examine patients, while the latter rely on personal examination by observation.
- 12.3 Herbalists ask patients about their problems, and often go into the bush to dig for some roots, which they boil into a potion for their patient to drink. One group of doctors uses magic to confound patients. They often give them a potion to drink to make them vomit. Very often, the patient opens his/her eyes after vomiting to find a lizard, frog or snake in the vomit, and is then told that the problem has been solved. Many believe that these methods can cure them. Traditional doctors also appeal to ancestors to help them cure their patients.

- 12.4 Traditional doctors practise their profession in fields such as –
- (a) attending to the sick to cure disease
  - (b) assisting women who cannot conceive
  - (c) assisting men who are sterile
  - (d) attending to men who cannot find a girl-friend or wife
  - (e) empowering people in authority to rule
  - (f) offering lucky charms and love potions
  - (g) strengthening hunters and warriors
  - (h) fortifying homes against evil spirits
  - (i) fortifying kraals and cattle posts to protect livestock, and
  - (j) avenging death due to sorcery.
- 12.5 Whereas the Batswana Traditional Authority recognises the role of traditional healers in society, the importance of proper control of their activities cannot be overemphasised.
- 12.6 As traditional healers are not always registered practitioners, the Traditional Authority therefore rules as follows:
- (a) All traditional doctors, healers and diviners that serve people shall be registered with the Traditional Authority.
  - (b) A special card shall be issued to those who are duly registered.
  - (c) Unregistered traditional healers shall not be allowed to practise in the Batswana Traditional Authority's area of jurisdiction.
  - (d) Certain criteria for recognition and registration shall be laid down by the Traditional Authority.
  - (e) The Traditional Authority shall reserve the right to determine the rates that patients pay to traditional healers.
  - (f) The medicines or herbs that healers issue to patients shall be produced before the *Kgotla* upon demand.
  - (g) The consulting rooms of a traditional healer shall be open for inspection by the Traditional Authority at all times.
  - (h) Traditional healers practising in the Batswana Traditional Authority's area of jurisdiction shall abide by environmental laws and regulations laid down by the state regarding the protection of Namibia's flora and fauna.
  - (i) Traditional healers visiting the area of jurisdiction of the Batswana Traditional Authority for the purpose of treating patients shall first obtain permission from the *Kgotla* before seeing their patients.
  - (j) All practising traditional healers shall pay the Traditional Authority a levy of N\$1,000 (one thousand Namibia Dollars) per annum.

## ANNEXURES

Schedule 1: The traditional totem of the Royal House of the Batswana ba Namibia is the baboon.



Schedule 2: The colours of the Batswana Traditional Authority are as follows:



### Description:

1. Red (the blood of those who died during colonial times)
2. Green (the natural vegetation of Namibia)
3. White (hope for the future – progress, love, and development)

Schedule 3: The Traditional Hierachy  
The Chief and Paramount Chief  
Council of Elders  
Senior Councillors (*Dikgosana*)  
Headmen/-women (*Bo-rametse*)

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Schedule 4:      The leopard skin



Schedule 5:      The Lotlhare Royal House Praise Poem<sup>10</sup>

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10      No translation was provided for the praise poems on pages 130 and 131.

## CERTIFICATE OF CONSENT TO PUBLISH

UNIVERSITY OF NAMIBIA

FACULTY OF LAW

HUMAN RIGHTS AND DOCUMENTATION CENTRE

### RE: CONSENT TO PUBLICATION

I, the undersigned, Chief of the BATSWANA Traditional Authority, hereby give consent to the Human Rights and Documentation Centre, to publish the following documents of the BATSWANA Traditional Authority:

1. The Customary Laws
2. The Community Profile
3. Picture of the Chief
4. Logo of the Traditional Authority

I acknowledge that the Human Rights and Documentation Centre will publish the laws in our indigenous language (SETSWANA), as well as the English language. I am familiar with the contents of the laws that will be published and further acknowledge that they were prepared by my traditional authority.

Signed on this 1st day of AUGUST 2012

At WINDHOK

\_\_\_\_\_  
Chief

\_\_\_\_\_  
For HRDC: Mr. A. Gairiseb

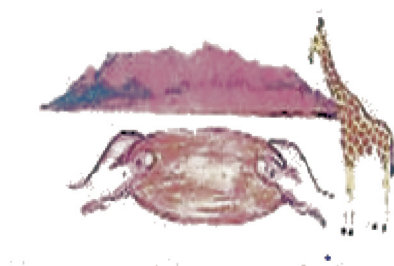




**THE DÂURE DAMAN TRADITIONAL AUTHORITY**  
**DÂURE DAMAN DI !HAO!NÂSI ‡GAE‡GUIS**



The supreme leader of the Dâure Daman is *Gaob*<sup>1</sup> Elias Taniseb.  
Date of designation: 6 March 2008



**SAMI ꞤGAUB DÂURE DAMAN**

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<sup>1</sup> Traditional title in terms of section 11, Traditional Authorities Act, 2000 (No. 25 of 2000).



## PROFILE<sup>2</sup>

### Introduction

We, the Dâure Daman, are one of the many clans making up the Damara people, also known as the #Nūkhoen. As our name indicates, the Dâure Daman inhabited the historic Dâures Mountain and surrounding areas from the northern banks of the Omaruru River (#Eseb !ab), from where it traversed the Namib Desert bordering the Atlantic Ocean, the Namib Desert on the north-western side, up to the area of !Gao-lunias (Palm).

We further acknowledge the Namibian Constitution, which enables us to enjoy, exercise, express, preserve and develop our culture, language, tradition and faith inasmuch as doing so does not infringe on the provisions of the Constitution.

With deep gratitude to God Almighty, with whom the destiny of nations and the history of people rest, we pledge our commitment to observe his guidance in the execution of our customary law.

On February 2003, the Dâure Daman traditional community at #Nudanab reaffirmed *Gaob* Elias Taniseb as our supreme leader in accordance with section 18 of the Traditional Authorities Act, 2000 (No. 25 of 2000).

The Dâure Daman love to sing and communicate our appreciation and/or praise of the Lord and our leaders through prayers, songs and poetry.

### Origin and history of the Dâure Daman

Although the Damara leadership existed well before 1390 through various supreme leaders such as *Gaob* !Ā!Nā !Nānub, as a people the Damara resided all over the territory today known as the Republic of Namibia.

In about 1640, certain Damara clans under the leadership of *Gaob* !Narirab, living in what was then southern Owambo, were at war with the Owambo. *Gaob* !Narirab died in battle and the survivors moved to southern Namibia under the leadership of *Gaob* Gariseb. There they settled at #Kanubes (Okanjande), approximately 12 km south-west of Otjiwarongo, their main seat.

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2 This profile was provided by the Dâure Daman Traditional Authority, and forms Chapter 3 of the original text of the customary laws. The elision has been indicated in the section containing the laws in English. Here, the numbering of individual paragraphs has been removed in order to coincide with the general style of the published volume.

Later, due to ongoing wars, *Gaob* Gariseb moved southwards and crossed the Orange River with his people. Some time passed before he led his people back over the Orange to †Kanubes, where they settled once again. Here, the group grew in large numbers.

Towards 1665, a skirmish with the Herero forced a certain group to move to the Dâures area. This group was known as the Aogudaman. Other Damara groups joined a clan that resided at the !Oe†gâb (Erongo) Mountain, namely the !Oe†gân.

Initially, the Dâure Daman established themselves at †Gûas and !Nai!aob, and in the surrounding areas. In later years, they were led by Gaob Abraham Seibeb (also known as †Guruseb). However, due to there being insufficient water for a larger group, some subgroups migrated to live along the †Eseb River, commonly known as Omaruru, where a strong spring was spotted with the assistance of a dog. The area was called †Â†gomes, literally referring to the wet side of the dog that found the spring. With the abundance of water and under the able leadership of our founding fathers, seasonal crops such as maize, dates and wheat could be cultivated.

The Dâure Daman lived around †Hurubes and !Nau †Hurubes (Ward 11 and the Palmwag Concession), up to †Aban †Khus (currently Ward 7) and across to †Huib (currently Ward 5) around the Dâures Mountain and along the shores of the Skeleton Coast Park. Graves at Cape Cross bear silent witness to the former presence of the Dâure Daman in the area. Ward 7 was allocated to the †Aodaman traditional community by the Dâure Daman Traditional Authority under a special treaty under which the †Aodaman Traditional Authority were granted jurisdiction over the land in question on condition that it would treat the Dâure Daman who also lived there fairly, and would share economic benefits with the Dâure Daman Traditional Authority.

The Dâure Daman residential area of jurisdiction borders –

- the †Eseb River to the south
  - the !Oe-†Gan traditional community and Zeraeua traditional community to the east
  - the Zeraeua traditional community to the north-east
  - the †Gaiodaman traditional community to the north and north-east, and
  - the †Aodaman traditional community to the north-west, and
- it extends into the Dorob National Park and the Skeleton Coast Park.

The Dâure Daman mostly inhabited the places listed below. The villages are led by the various *Danakhoen* (Traditional Councillors).

| Names of villages, farms and other places inhabited by the Dâure Daman |                         |                |
|------------------------------------------------------------------------|-------------------------|----------------|
| ‡Nudanab                                                               | !Homdi!gams             | Guos           |
| Ani‡gas                                                                | !Haruxa ams             | !Gâm-ros       |
| Loeses                                                                 | !Haruxa ams pos         | Tsaurob        |
| !Nob-!gami -Bloemhof                                                   | ‡Nunixab                | !Oas           |
| Mooiplaas                                                              | Âixâib                  | ‡Omti-!as      |
| Rietkuils                                                              | !khomxadare             | !Gâm-ros       |
| !Goe-!gams                                                             | Bakenpos                | !Ganaxas       |
| Khoedi-!as                                                             | Daodais dams            | Arib           |
| !Huwutsaus                                                             | Eliseri dams            | !Nai-di-dom    |
| !Nai-‡ais                                                              | !Gaenab                 | Hagudib        |
| !Aoba-!hûnis                                                           | Sebta-ahes              | !Ui-laes       |
| ‡Aixas-!goas                                                           | Suwerus                 | !überos        |
| Grenspos                                                               | !Ganamab                | ‡Nu-!nâbes     |
| !Aemas-!haos                                                           | !Arixa-ams              | ‡Nu-luis       |
| !Khorol-!aus                                                           | Hab-domi                | !uri-!norob    |
| Manga Tsasen                                                           | !Ue-!gams               | Horison        |
| Daweb                                                                  | Brandberg-pos           | Kaixuigeb      |
| Bergpos                                                                | Tse-tsaub               | Naritas        |
| Janni-pos                                                              | Tsiseb                  | Narita-!haobes |
| !Khai-‡nuses                                                           | !Gaus                   | Goaroseb       |
| !Hanahes dams                                                          | !Nai-‡gâb               | !Khorol-ais    |
| ‡Go dams                                                               | !Gaes-ôas               | !Naos          |
| !Gani-!gaus                                                            | Tsaurob next to Suwerus | Hai-!goaseb    |
| !Nob-!gams                                                             | Daob-!gâus              | !Obas          |
| !Gan-!haob                                                             | !No-maob                | !Hui-!gam      |
| Hobas                                                                  | !Gao-!Unias             | Tsân-di-!gams  |
| Bisiesport                                                             | ‡Garab                  | !Haob          |
| Leeuhoek                                                               |                         | ‡Goa-!gams     |
|                                                                        |                         | ‡Gorobagus     |

## History of the leadership structure

According to Dâure Daman custom, the community identifies its leader by certain physical characteristics as well as by his patience, bravery, experience, fitness and behaviour. The chosen leader then selects his advisors and assistants, who are also identified according to how they look after their families, their territory, the widows and orphans in their communities, and other needy people – including strangers in their area.

The succession of Dâure Daman traditional leadership since the 1800s has been as follows:

1. *Goab* Ida !Huseb was born 1830 and died in 1950. He was laid to rest at !Gaus with his two wives. His Councillors were as follows:
  - Thoma Toasi !Gaseb
  - !Haiseb
  - Erastus Tourobo

- Ganaseb
- #Namta Taniseb
- !Kai Taniseb
- #Habaeb

All his Councillors died before *Gaob* !Huseb after they went to a meeting with the !Ome clan. One passed away at the meeting, and another two at their homes. The rest passed on later at their villages. They were leaders among the Dâure Daman, Nami Daman, !Huruben, Augu Daman, Hai!na Daman and !Noradan clans who lived at !Nai#gais, along the Omaruru River, at Dâures, along the Ugab River, at !Goanta#gab, along the Huab River, up to Sesfontein.

2. Jakobus !Nâub Uwuseb was a leader in the Sorri-Sorris area.
3. Moses !Gabib !Gaseb had the following Councillors:
  - Tatsrib Taniseb
  - Kefa Tsana !Kuib !Gaseb
  - Mose #Gatama !Gaseb
  - Edwald Goseb
  - Martin Auba Uwuseb
  - Jefrie Dausab
4. The leaders appointed after the Odendaal Commission in 1971 were as follows:
  - Eddie Tourob
  - Missag !Auxab
  - Mathilde !Kharuxas !Areses
  - Adres Tjai-Tjai-Mau
  - Elias Taniseb
5. *Gaob* Elias Taniseb, became the supreme leader in 1984,<sup>3</sup> and has since led successive teams of Councillors, as listed below:
  - Andreas Tjai-Tjai-Mau
  - Mathilde !Areses
  - Olga Matsuis
  - Sagarias Seibeb
 From 1993:
  - Martin Goseb
  - Albertine Tjai-Tjai-Mau
  - Erika Kamendu
  - Stefanus !Gaseb
  - Ismael !Gaseb

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3 The date of his official designation in terms of the *Government Gazette* was 2008.

From 2003:

- Phillip !Gaseb
- Issaskar Tourobo
- Jacobus Ganuseb
- Hanna !Awaras
- Andreas !Awarab
- Maria !Awaras
- Eliaser Sao !Gowaseb
- Asser !Guruseb
- Petrus !Naibab
- Mariane Ironga
- Ismael !Gaseb
- Benhard !Garoeb
- Thomas Taniseb



## **THE LAWS OF THE DÂURE DAMAN<sup>4</sup>**

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4 The laws were submitted in English only.





# Chapter 1 (Article 1)

## Article 1: Our identity

### 1.1 Name

The name of the Traditional Authority shall be the Dâure Daman Traditional Authority.

### 1.2 Our values

1.2.1 The Dâure Daman, who value humanity and understand that human beings are interdependent, shall be guided by following values in their interactions:

- (a) !Gōagus (Honesty)
- (b) !Nami (Love)
- (c) !Gui-!naxasib (Unity)
- (d) !Khaubas (Protection)
- (e) Go-!khagus (Guardianship/care)
- (f) !Gaib (Strength)
- (g) ‡Hau-!nasib (Respect)

# Chapter 2 (Article 2)

## Article 2: Definitions

2.1 In this customary law, the following terms shall have the meanings as indicated, unless the context indicates otherwise:

|                       |                                                                                                                                                    |
|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>aba !hanib</i>     | unity, protection and caring among people                                                                                                          |
| <i>customary law</i>  | the supreme governing law of the Dâure Daman traditional community                                                                                 |
| <i>‡ai-am ‡goab</i>   | a traditional mat made from goat, sheep or other animal skin                                                                                       |
| <i>‡nīs</i>           | a blanket that can be worn or used for processing food                                                                                             |
| <i>Danakhoen</i>      | traditional headmen                                                                                                                                |
| <i>Dana Danakhoen</i> | senior traditional headmen                                                                                                                         |
| <i>Gaob</i>           | male supreme traditional leader of the Dâure Daman traditional community designated in accordance with Article 18 of the Dâure Daman customary law |
| <i>Gaosarab</i>       | official traditional dress of the supreme leader                                                                                                   |
| <i>!Gâibasen haib</i> | official traditional walking stick                                                                                                                 |
| <i>!gawas</i>         | a hat                                                                                                                                              |

|                                           |                                                                                                                                                                                                       |
|-------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>area of jurisdiction</i>               | the legitimate original area governed by the Dâure Daman traditional community                                                                                                                        |
| <i>!kho-!khas</i>                         | salutation or praising of the <i>Gaob</i> , <i>Dana Danakhoen</i> and/or <i>Danakhoen</i> as well as any substantive <i>Dâuredamab</i> (Dâure Dama man) or <i>Dâuredamas</i> (Dâure Dama woman)       |
| <i>!naib khob</i>                         | diversity and the umbrella under which the <i>Gaob</i> accommodates his people                                                                                                                        |
| <i>‡Nû-ai !naos</i><br><i>Dâure Daman</i> | an official traditional wooden chair<br>the indigenous subclan name of the Damara people whose ancestors originated from the Dâures Mountain and who live at the Dâures Mountain and in its surrounds |
| <i>!khaire-ais</i><br><i>!haos-!hân</i>   | the centre or gathering place of the Dâure Daman<br>literally, the youth of the Dâure Daman, which symbolises the freshness, innovation and beauty of the Dâure Daman                                 |
| <i>‡Nûkhoen</i>                           | the original name for the Damara people, of whom the Dâure Daman are a subclan                                                                                                                        |
| <i>tsēkhom</i>                            | a ritual activity performed by an elder to communicate with the community's ancestors                                                                                                                 |

## Chapter 3 (Articles 3 to 7)

### Article 3: Community profile

(See “Profile” section at the start of the Dâure Daman chapter in this volume.)

### Article 4: The Dâure Daman Traditional Authority

- 4.1 The authoritative power of the Dâure Daman Traditional Authority shall be vested in the Traditional Council, which shall consist of the following:
- Gaob*
  - !Naga ‡nôa Gaob*
  - Dana Danakhoen*
  - Danakhoen*
  - Secretary, and
  - Additional members.

### 4.2 Functions and responsibilities of the Traditional Council

- 4.2.1 The Traditional Council shall maintain and administer the day-to-day running of the Dâure Daman Traditional Authority offices in the various constituencies.

#### **4.2.2 *Gaob***

4.2.2.1 As the supreme head of the Dâure Daman, the *Gaob* shall have the following obligatory duties to his subjects and in addition to the powers provided for in the Traditional Authorities Act, 2000 (No. 25 of 2000):

##### 4.2.2.2 Functions of the *Gaob*

- (a) The *Gaob* shall be the father figure and traditional head of the Dâure Daman traditional community and shall promote, uphold, defend and respect the customary law and cultural unity of the Dâure Daman people, irrespective of their sex, political affiliation or religious denomination.
- (b) The *Gaob* shall be the chairperson of the Dâure Daman Traditional Council.
- (c) All structures shall be accountable to the *Gaob* and to the community in the execution of their duties.
- (d) The *Gaob* shall be the principal spokesperson of the Dâure Daman traditional community.
- (e) The *Gaob* shall appoint a substantive spokesperson in accordance with the appropriate norms from among the other Councillors or, in exceptional circumstances, from the traditional community.
- (f) Although the *Gaob* is the traditional community's principal spokesperson, it shall not be expected of the *Gaob* to engage and directly communicate with his community on a daily, weekly or monthly basis on radio or via other platforms.
- (g) The *Gaob* shall not handle or hear community court cases, but shall be entitled to consider cases on appeal.

##### 4.2.2.3 Rights and privileges of the *Gaob* as supreme head of the community

- (a) The *Gaob* shall have the right to exercise authority over all communal land in his area of jurisdiction.
- (b) The *Gaob* shall be shown respect by his people or by any other person by way of appropriate gestures in different contexts, e.g. all shall stand when the presence of the *Gaob* is observed, and shall remain so until told otherwise.
- (c) The *Gaob* shall have the right to exercise authority over the natural resources in his area of jurisdiction.
- (d) The *Gaob* shall not be approached by anyone unless such person is escorted and introduced by a Councillor, the Secretary, or a bodyguard.
- (e) No one shall enter the *Gaob*'s house without showing respect.
- (f) The *Gaob* shall, in his discretion, be entitled to delegate a specified task to a deputy.

#### **4.2.3 *!Naga †nôa Gaob***

- 4.2.3.1 The *!Naga †nôa Gaob* (Deputy Chief) shall –
- (a) be second in charge after the *Gaob*
  - (b) deputise for the *Gaob* and act in his absence, and
  - (c) perform all functions delegated to him by the *Gaob*.

#### **4.2.4 *Dana Danakhoen and Danakhoen***

- 4.2.4.1 The *Dana Danakhoen* and *Danakhoen* shall be third and fourth in charge, respectively, after the *Gaob* and *!Naga †nôa Gaob*, and shall perform the following duties:
- (a) Visit the districts and receive reports on people's problems and plans
  - (b) Pass on messages and, when available, gifts from the *Gaob* to the people, and vice versa
  - (c) Handle all court cases and, when necessary in the absence of the *Gaob*, make the final judgment on minor cases
  - (d) Issue directives to those under their jurisdiction
  - (e) Pass on court cases to the *Gaob* for final judgement
  - (f) Promote the development of the Dâure Daman community, and
  - (g) Develop the history and protect the heritage of the people.

#### **4.2.5 Secretary**

- 4.2.5.1 The Secretary shall be responsible for all administrative work associated with the Traditional Council.

### **Article 5: Seat of the Dâure Daman Traditional Authority**

- 5.1 The Dâure Daman head office is situated at †Nu-danab, with regional offices at Loeses and Ani†gas.

### **Article 6: Dâure Daman traditional symbols, anthem and praises, flag, language and emblem/coat of arms**

#### **6.1 Traditional symbols**

- 6.1.1 The following symbols reflect the dynasty, unity and purpose of the Dâure Daman:
- (a) *Gaosarab*
  - (b) *!Gawas*
  - (c) *!Gâibasen haib*
  - (d) *†Ai-am †goab*
  - (e) *†Nû-ai !naos*

## 6.2 Anthem and praises<sup>5</sup>

### 6.2.1 The anthem (*Hoan !na ta a †kî*)

*Dâure Daman †ae se huris †awas !na †goese sas  
!na ta ge a †kî hoan ge sas xa !Khub †om †ae †gui he há  
!no sa sib xawe †ni sa si, khoexa !n, xawe †gâi-lagu  
hoan !na, hoan !na ta a †kî  
†Hai sore di tsî †gâ sore di tsî tsuxub !khae nâs !nâ !Khutse Gao Ao  
si da †gae †guisa †gai ba mâ.*

[Dâure Daman community living at the Red Sea we are pleased in you  
All are ruled by you through the hand of the Almighty God during quiet but  
peaceful times, kind, however, during all bad experiences, we are pleased in all  
Almighty God give our traditional authority strength during bad and dry days,  
and during dark nights.]

### 6.2.2 Praise song for the traditional leader (†Gae-†gui aob)

*†Gom †gomsa seb ta †gae-†gui  
Sa da †gû tsi Gao oaba  
†Gae-†gui soro ĩ ra †om khâi tsi †kawusa sib !nâ dī tsâ  
†Gores †ka !âu mâ hoa !hao so  
†Gae-†guis âb ge a !Khub di hui  
†Gae-†gui âb ge a !Khub di hui*

[He ruled with trust our father and *Gaob*  
He lifted the life/spirit of the traditional authority and endeavours during hard  
times  
All communities should wait while praying  
The *Gaob* is there with the help of God  
The *Goab* is there with the help of God]

### 6.2.3 General praise song (!Kho †kas mî di)

*GAOB*

*Ae kai †gana ě †nâuxa ě  
Tsaura!hub !na mâ !kha se kaise  
Soma haise kais  
!Narutse kaitse, †an tama †aes  
†Aro-!omab !na mâ †hâ ě tsu ě hî sa ě*

5 The indigenous language texts in this section were translated into English by Alexander Gairiseb.

*Abare sa laesa !nai-!hanib !na  
Hudu-du-du-du, hiti-ti-ti-ti-di*

[Oh flying  
Big flower standing in the soft soil  
Big tree providing shade  
Big stump that provides undying fire  
Carry your community on your back  
Hudu-du-du-du, hiti-ti-ti-ti-di]

*DANA DANAKHOEB TSI DANAKHOEN*

*!Gana- !nomse kaise, !aritama  
!aesa ra !khu-!aes  
!Khawura !nomse !ha-!narus !na !nôas  
!Om tama !nomse !nuseba xu a !ansase  
Hudu-du-du-du, hiti-ti-ti-ti-di*

[Oh big coal that instigates the undying fire  
Fanned coal in the middle of the fire  
Sleepless coal shining from far]

#### 6.2.4 Praise song for the Dâures Mountain (*Dâures di gares*)

*Dâurerose sida !âsabese  
Sasa xu is ge Dâure Daman laesa !âsase gere hâ  
Ûi tsî netsê !norasa Namibiab !nâ, tsî sa  
!namipe sa !kharib !nâ a !ansa  
Sa goasa ū re, sa ôana xu.  
Dâurerose sas, ai !nû tsîta ni !gai?  
Hoa Dâure Daman !aes di !honkhoese, sa dawa tsū dao-e hâ-e?  
Dâurerose !uis ai mâ tsîta ni !au?  
Ae! Dâurerose !aerob !nâs ta !uri !haiba !gawa!  
!xabese! !âsabese.*

*!Gâmron as ra !nâ.  
Sa !gomgu ra !â,  
Ae! Dâurerose, Aboxan !gare !uise  
Hoan, di !â!â-oase  
Sa dawa khoe !ao-e hâ-e?  
!Khîb di !Gâmron !guin sas ai ra !nâ.  
!Gao-huri !oas ga !gom, tsaura tsî !khai  
!Goa !oab xa ra saohe se  
Xawe sa ôan hoan sâusase ra !oaxase.  
!Goa sores !khâugu sas ai ra !khâ.*

*Ora sodi di isibas ta lgau te.  
Ae Dâure Daman laes di îxabese  
lâsabese! Aboxan ôau aise  
Sa lguse hâs ta khî kai te.*

*Xoa-aob: São Ellis lGowaseb*

[Little Dâures our provider  
It's because of you that the Dâure Daman community was filled with life  
And today is able to live in areas surrounding you in an independent Namibia  
Accept your praise from your children  
Little Dâure do we have to sit down and think about you?  
The boss of the entire Dâure Daman community, is there ever a wrong way by  
your side?  
Little Dâure do we have to stand on the rock and shout out loud?  
Oh little Dâure at times you wear a white cloth on your head.

Tears fall from you  
Your sides become wet  
Oh little Dâure, the sacred mountain of our ancestors  
The educator of all  
Is there ever blood by your side?  
Tears of peace fall from you  
A strong ocean waves flow, followed by a calm and cool wind  
But all your children are safe  
The morning sun rays burn on your back  
That displays the shape of raw lungs  
Oh beauty of the Dâure Daman community  
The seeker of our ancestors  
Your presence makes me happy.

Author: São Ellis lGowaseb]

### **6.3 Flag**

- 6.3.1 The colours of the Dâure Daman flag shall be blue, brown, green and white.
- 6.3.2 Blue shall represent the existence of Almighty God, peace and unity.
- 6.3.3 Brown shall represent the soil of our land and the natural resources in the Dâure Daman area.
- 6.3.4 Green shall represent vegetation and life.
- 6.3.5 White shall represent peace and unity.

## **6.4 Language**

- 6.4.1 The language of the Dâure Daman traditional community shall be known as #Nūkhoegowab, which is the Dâure Daman regional dialect of Khoekhoegowab.

## **6.5 Emblem/coat of arms**

- 6.5.1 The giraffe shall symbolise vision, diversity and unity amongst the Dâure Daman.
- 6.5.2 The ‡*gaub* (“boat”) shall symbolise production, self-sufficiency, productivity, wealth, natural resources, growth and self-reliance.
- 6.5.3 The *dâures* (“mountain”) shall symbolise the shield, protection, habitat and comfort.
- 6.5.4 The sky shall symbolise hope, determination and life.

## **Article 7: Definition and duties of a member of the traditional community**

### **7.1 Definition of *member***

- 7.1.1 A person shall be a member of the Dâure Daman by virtue of not only inhabiting the declared area of jurisdiction, but also –
- (a) being born to a Dâure Daman parent
  - (b) speaking the Dâure Daman dialect of #Nūkhoegowab, or
  - (c) having undergone an approval process by the Dâure Daman Traditional Authority in accordance with Dâure Daman customary practice.

### **7.2 Duties of membership**

- 7.2.1 Each member shall –
- (a) uphold and maintain Dâure Daman values, culture and traditions
  - (b) respect and comply with Dâure Daman customary law and Traditional Authority structures
  - (c) be willing and make him-/herself available to serve the Dâure Daman Traditional Authority in any capacity, especially when directed to do so by such Authority
  - (d) refrain from communicating directly with the media without first engaging the Traditional Authority, and
  - (e) contribute financially or materially to the operations of the Dâure Daman Traditional Authority.

## **Chapter 4 (Articles 8 to 10)**

### **Article 8: Legislative authority**

- 8.1 The legislative authority of the Dâure Daman traditional community shall be vested in the two houses of the Dâure Daman Traditional Authority, namely –



- (a) the *Ana!gaos*, and
- (b) the *!Khē-oms*.

### 8.1.1 *Ana!gaos*

- 8.1.1.1 The *Ana!gaos* shall be the primary house in which the need to make laws or amend the customs of the Dâure Daman is introduced.
- 8.1.1.2 Any proposed draft law or amendment to an existing law shall be submitted to the Secretary, who, at the instruction of the *Gaob*, shall invite individuals to attend such *Ana!gaos* sessions.
- 8.1.1.3 The prepared draft law or amendment shall thereafter be submitted to the *!Khē-oms* for approval with or without changes.
- 8.1.1.4 Should the *!Khē-oms* reject the draft law or amendment, such draft or amendment shall be referred back to the *Ana!gaos* for further deliberations as amended or proposed.

### 8.1.2 *!Khē-oms*

- 8.1.2.1 The final approval of any draft law or amendment submitted by the *Ana!gaos* to become law is vested in the *!Khē-oms* [secondary house].
- 8.1.2.2 The *Khē-oms* shall consist of the *Gaob* or his deputy, a minimum of 3 (three) members of the *Dana Danakhoen*, a minimum of 3 (three) members of the *Danakhoen*, and a minimum of 3 (three) elders.
- 8.1.2.3 The members of the *Khē-oms* shall consist of men and women.
- 8.1.2.4 If need be, the members of the *Khē-oms* may include any appointee on the basis of his/her expertise.

## Article 9: The customary laws of the Dâure Daman

### 9.1 Introduction

The customary laws of the Dâure Daman have a long-standing history. They can be traced back as far as the early 1600s, when our forefathers started grouping themselves under the guidance of a particular leader, by so doing acknowledging the rule of law among themselves. Although no written version of such customary law system exists, history tells us that strong guiding rules were adhered to by all. Customary law was the basis on which people's interactions were regulated to ensure harmonious living.

- 9.1.1 These customary laws shall form the framework for rules and procedures for dealing with traditional matters provided they do not conflict with the existing laws of the Republic of Namibia.

## **9.2 The laws**

### **9.2.1 Application**

- 9.2.1.1 Nothing contained in these customary laws shall be construed as prohibiting the Dâure Daman Traditional Authority from laying a criminal charge with the police.
- 9.2.1.2 Neither shall the fact that a matter has been reported to the police preclude the Dâure Daman Traditional Authority from taking action against the culprit in accordance with community law.
- 9.2.1.2 The following acts are regarded as offences and are associated with applicable fines and other punitive measures.

### **9.2.2 Theft**

- 9.2.2.1 The stealing of someone's property shall be prohibited.
- 9.2.2.2 Any person reported stealing shall be summoned to appear before the Community Court.
- 9.2.2.3 If the suspect is found guilty of theft, s/he shall pay double the value of the stolen item.
- 9.2.2.4 If the stolen item is recovered, the person found guilty of theft shall pay half of the value of the item stolen.
- 9.2.2.4 If someone is found with stolen goods whose owner is unknown, the Traditional Authority shall open a case against the suspect for a period of 3 (three) months, and the stolen goods shall be forfeited to the Traditional Authority.

### **9.2.3 Murder and culpable homicide**

- 9.2.3.1 Murder and culpable homicide shall be treated as serious criminal offences.
- 9.2.3.2 Any person convicted of murder or culpable homicide shall pay compensation in the form of livestock or cash as determined by the Community Court.

### **9.2.4 Assault**

- 9.2.4.1 Any form of physical harm to anyone or any attempt to that effect shall be deemed a criminal offence.
- 9.2.4.2 Any person suspected of having caused such physical harm to another shall be summoned to appear before the Community Court.
- 9.2.4.2 The injured person shall be referred to a doctor, clinic or hospital for a medical examination to obtain a medical report before the Community Court can pronounce itself on the matter.
- 9.2.4.3 In cases where a person loses the use of one or other part of the body due to an assault, the following fines and/or compensations shall apply:
  - (a) Ear N\$ 1,000 (one thousand Namibia Dollars)
  - (b) Eye N\$ 5,000 (five thousand Namibia Dollars)

|     |            |           |                                             |
|-----|------------|-----------|---------------------------------------------|
| (c) | Nose       | N\$ 1,000 | (one thousand Namibia Dollars)              |
| (d) | Lip        | N\$ 1,000 | (one thousand Namibia Dollars)              |
| (e) | Tooth      | N\$ 500   | (five hundred Namibia Dollars)              |
| (f) | Tongue     | N\$ 5,000 | (five thousand Namibia Dollars)             |
| (g) | Finger     | N\$ 2,500 | (two thousand five hundred Namibia Dollars) |
| (h) | Hand       | N\$ 5,000 | (five thousand Namibia Dollars)             |
| (i) | Arm        | N\$ 5,000 | (five thousand Namibia Dollars)             |
| (j) | Leg        | N\$ 5,000 | (five thousand Namibia Dollars)             |
| (k) | Breast     | N\$ 5,000 | (five thousand Namibia Dollars)             |
| (l) | Open wound | N\$ 1,000 | (one thousand Namibia Dollars)              |

9.2.4.4 The above monetary values may also be converted into the value of livestock for compensation purposes.

### **9.2.5 Rape**

9.2.5.1 Rape shall be deemed a serious offence because it causes serious psychological trauma to the victim.

9.2.5.2 A rape victim shall be compensated an amount not less than N\$5,000 (five thousand Namibia Dollars) or livestock with an equivalent value.

### **9.2.6 Domestic violence**

9.2.6.1 Any form of domestic violence, whether physical, emotional or economic, shall be reported to the traditional leader.

9.2.6.2 A minimum fine of N\$1,000 (one thousand Namibia Dollars) shall be imposed on a person found guilty of domestic violence.

### **9.2.7 Impregnation**

9.2.7.1 Impregnation of a minor girl under the age of 18 (eighteen) years, with or without her consent, shall be deemed an offence.

9.2.7.2 The man found guilty of such offence shall pay maximum damages of N\$5,000 (five thousand Namibia Dollars) to the girl's parents and a further N\$10,000 (ten thousand Namibia Dollars) to the girl.

9.2.7.3 The man found guilty of such offence shall be responsible for the girl's further education costs if she was school-going.

### **9.2.8 Adultery**

9.2.8.1 Adultery shall be regarded as an offence which destroys sound marital relationships within any given society and should be condemned.

9.2.8.2 Cases of adultery shall be dealt with by the Community Court.

9.2.8.3 Any person found guilty of having committed adultery shall pay a minimum fine of N\$1,000 (one thousand Namibia Dollars) or such amount as directed by the Community Court.

### **9.2.9 Indebtedness**

- 9.2.9.1 A person to whom something is owed by another shall not be permitted to take the law into his/her own hands when promises are not kept, but shall report the matter to the Community Court for amicable resolution.
- 9.2.9.2 The Community Court may order that the loan be repaid with interest up to a maximum of 20% (twenty per cent).

### **9.2.10 Illegal hunting**

- 9.2.10.1 Hunting on communal land without a valid permit shall be prohibited.
- 9.2.10.2 A hunting permit shall be obtained from the Ministry of Environment and Tourism in conjunction with the Traditional Authority prior to any hunting being permitted.
- 9.2.10.3 A minimum fine of N\$1,000 (one thousand Namibia Dollars) shall be payable if a person is found guilty of illegal hunting.

### **9.2.11 Arson**

- 9.2.11.1 Any person intentionally or negligently setting fire to someone else's property, including their grazing land or buildings, and thereby causing damage or loss of property, shall be deemed guilty of arson.
- 9.2.11.2 A minimum fine of N\$5,000 (five thousand Namibia Dollars) shall apply to the arsonist.
- 9.2.11.3 The arsonist shall compensate the victim for losses suffered, provided such compensation is limited to the loss of personal assets.

### **9.2.12 Bribery**

- 9.2.12.1 Any person who offers money or any other kind of payment to any member of the community with the view to concealing his/her wrongdoing shall be guilty of an offence.
- 9.2.12.2 Any member of the community who receives such payment as referred to in Sub-article 9.2.12.1 shall be guilty of an offence.
- 9.2.12.2 A minimum fine of N\$1,000 (one thousand Namibia Dollars) shall apply to persons found guilty of bribery.

### **9.2.13 Abortion and baby dumping**

- 9.2.13.1 Any woman aborting her pregnancy or attempting to do so, or any person assisting such woman with such abortion, shall be fined a minimum of N\$5,000 (five thousand Namibia Dollars).
- 9.2.13.2 Any person found guilty of having dumped or of having assisted in dumping a newborn baby shall be fined a minimum of N\$5,000 (five thousand Namibia Dollars).

#### **9.2.14 Accusation**

- 9.2.14.1 Every community member shall have the right to be respected and to live in harmony with others.
- 9.2.14.2 Any person who falsely accuses another and, by so doing, harms the reputation and dignity of that person shall be liable for a minimum fine of N\$500 (five hundred Namibia Dollars).

#### **9.2.15 Refusal**

- 9.2.15.1 Any person failing to honour any court order such as an order to attend a court hearing, an order to testify in court proceedings or an order to pay a court fine, shall be criminally charged with having contravened the Community Courts Act, 2003 (No. 10 of 2003).
- 9.2.15.2 Any person who gives false testimony in a Community Court shall be criminally charged with having contravened the Community Courts Act.

#### **9.2.16 Appeal**

- 9.2.16.1 The Appeal Tribunal shall consist of the *Gaob* and 2 (two) Senior Traditional Councillors appointed by the *Gaob* from the Dâure Daman traditional community and, where necessary, from qualified legal personnel.
- 9.2.16.2 Any person who feels aggrieved by a judgement, conviction or sentence shall be entitled to lodge an appeal to the Appeal Tribunal within a period of 14 (fourteen) days after the judgment.
- 9.2.16.3 The Presiding Judge of the Community Court shall, within 14 (fourteen) days of having received a notification of appeal, submit the appeal to the Tribunal, stating the reasons of judgment and providing minutes of the Community Court proceedings.
- 9.2.16.4 The Tribunal may uphold or set aside the decision of the court a quo.

### **Article 10: The Community Courts and court proceedings**

#### **10.1 Community Courts**

- 10.1.1 Civil and criminal jurisdiction shall be vested in the Community Courts of the Dâure Daman Traditional Authority recognised and established in terms of sections 2(3) and 4(1), respectively, of the Community Courts Act, provided such courts do not conflict with the provisions of the said Act.
- 10.1.2 Community Courts shall have the power to hear, investigate and settle disputes over any matter between the members of the Dâure Daman traditional community.

- 10.1.3 In certain cases, Community Courts shall play the role of mediator in order to ensure reconciliation between conflicting parties.
- 10.1.4 Community Courts shall be independent and shall apply the law impartially without favour, fear or prejudice.
- 10.1.5 No person shall be permitted to interfere with the functions of Community Courts.
- 10.1.6 The *Gaob* shall appoint the Justices, Assessors, Clerks, Messengers and Interpreters of Community Courts.

## **10.2 Court proceedings**

- 10.2.1 Proceedings in Community Courts shall be in strict accordance with the provisions of sections 19 to 22 of the Community Courts Act.

## **Chapter 5 (Articles 11 to 13)**

### **Article 11: Land**

#### **11.1 Land ownership**

- 11.1.1 The Dâure Daman traditional community shall have the right to individually or collectively own, control and use their communal land, which right shall include the right to manage all resources found thereon, explore and exploit any latent resources thereon, and protect sacred places such as graves and spiritual institutions thereon.
- 11.1.2 All communal land over which the Dâure Daman Traditional Authority has jurisdiction shall be used for agricultural purposes first and subsequently for any other use as approved by the Traditional Authority.
- 11.1.3 The Dâure Daman shall have the right to benefit materially, financially and in any other way from the use of their traditional land for any purpose.

#### **11.2 Land allocation**

- 11.2.1 In terms of the Communal Land Reform Act, 2002 (No. 5 of 2002), all land in communal areas shall belong to the state.
- 11.2.2 The Communal Land Reform Act provides that Traditional Authorities shall act as the custodians of communal land on behalf of the President of the Republic of Namibia, who shall represent the state.
- 11.2.3 Land allocation and management, whether for grazing, residential, business or any other purpose, shall be dealt with by the Traditional Authority in terms of the Communal Land Reform Act.

### **11.3 Water management and control**

- 11.3.1 The management and proper control of water resources shall be deemed essential in order to secure the future survival of the people, animals and the entire environment.
- 11.3.2 Every community member shall be obliged to take care of their water points and shall refrain from any act which may disturb the healthy and free use of water.
- 11.3.3 The intentional waste of water shall be prohibited and shall be punishable.
- 11.3.4 Each member of the community shall be obliged to pay the relevant fees for water consumption.
- 11.3.5 Failure to pay such water consumption fees shall be reported to the traditional leaders in the area concerned.
- 11.3.6 No community member shall unreasonably refuse to assist fellow farmers in need of water for domestic or animal use.

### **11.4 Animals**

- 11.4.1 All animals, whether wild or domestic, including birds, shall be protected as they are indispensable parts of individuals' and the community's livelihood.
- 11.4.2 Any irresponsible act or physical harm to animals shall be deemed destructive to the natural ecological balance and shall be utterly condemned.

#### **11.4.3 Loss of livestock or other animals**

- 11.4.3.1 All cases of lost or stray animals shall be reported to the traditional leaders in the area concerned, who shall immediately announce the matter through the radio services to inform the public.
- 11.4.3.2 Changing the brand mark on a lost or stray animal shall be prohibited and punishable in a Community Court.
- 11.4.3.3 Should the owner of a lost or stray animal not be traced within a period of 3 (three) months, a Traditional Councillor shall keep the animal in custody until the animal is dealt with as stipulated in Sub-article 11.4.3.
- 11.4.3.4 If the owner of the lost or stray animal should not have come forth after a period of 3 (three) months has lapsed, any offspring from such lost or stray animal shall belong to the caretaker who reported the case.
- 11.4.3.5 Any person who finds a lost or stray animal but fails to report such discovery shall not be entitled to the rights conferred under Sub-article 11.4.3.

### **11.5 Grazing**

- 11.5.1 With the exception of residential portions of communal farms, demarcated land shall be jointly used for grazing by all the lawful residents of such farms, unless portions thereof are fenced off in terms of the law as approved by the Ministry of Lands and Resettlement.

- 11.5.2 Any person causing a veld fire on or damaging grazing land in any way shall be prosecuted.

## **Article 12: Assets**

- 12.1 The Dâure Daman Traditional Authority shall have the right to acquire, purchase, lease, sell or otherwise hold or dispose of movable and immovable property on behalf of the community in terms of section 18(1) of the Traditional Authorities Act.
- 12.2 All immovable and/or movable property of the community shall be under the direct control and management of the Dâure Daman Traditional Authority.

## **Article 13: Community Trust Fund**

- 13.1 The Dâure Daman Traditional Authority shall establish a Community Trust Fund for the benefit of the traditional community in terms of section 18(3) of the Traditional Authorities Act.

## **Chapter 6 (Articles 14 to 17)**

### **Article 14: Festivals and community meetings**

#### **14.1 Festivals**

- 14.1.1 The Dâure Daman traditional community shall have at least 1 (one) traditional festival per year at any place in the communal area in order to promote, among other things, our socio-cultural activities.

#### **14.2 Community meetings**

- 14.2.1 The Dâure Daman traditional community shall have at least 1 (one) General Meeting a year.
- 14.2.2 The Dâure Daman Traditional Authority and other structures within the community shall have regular meetings in accordance with internal standing rules, procedures and orders.
- 14.2.3 The *Gaob* shall chair all Traditional Authority meetings, unless otherwise resolved by the latter.
- 14.2.4 Traditional Councillors shall have at least two meetings with the community in their respective constituencies, and shall report back on such meetings to the *Gaob*.
- 14.2.5 The notice period applicable to all meetings shall be a minimum of 1 (one) month, except in extraordinary cases which may require a shorter notice period.
- 14.2.6 Notices of meetings shall be announced via the Damara>Nama radio service and shall be considered duly served in this manner.



## Article 15: Sacred and prohibited places

- 15.1 All people shall be obliged to respect graves and other sacred and prohibited places, including those of the late *Gaobs* in Dâure Daman areas of jurisdiction.
- 15.2 The sacred Dâure Daman graves at Cape Cross, Guos, !Gaus, Kaixuigeb, Khorixas, Sebta-ahes, Suwerus, !Nai-!gâb, !Ues, !Gaes-ôas, !Khais-nuses (Gaweses), !Obas, !Aema!haos, !Arixa-ams, !Gao-!Unias, !Gaus, !Horo-laus, !Nai-!ais, !Nai-!Uri-!norob, and !Nob-!gami shall be respected.
- 15.3 The Dâures Mountain, which is regarded as the sacred ancestral origin of the Dâure Daman, shall only be climbed after an elder has performed the *tsêkhom* ritual and, by so doing, has sought the ancestors' blessings.
- 15.4 Any immoral practices at a sacred or prohibited place shall be deemed an offence for which the *Gaob* shall have the power to take legal action against the culprit.

## Article 16: Marriage

- 16.1 Only a natural man and a natural woman shall be permitted to marry each other.
- 16.2 Only monogamous marriages shall be allowed.
- 16.3 A woman over the age of 18 years and a man over the age of 21 years shall be entitled to marry.
- 16.4 The *Gaob* or his duly authorised *Danakhoen* shall solemnise traditional marriages.
- 16.5 A woman shall be prohibited from using the letter *b* at the end of her surname because it indicates manhood.
- 16.6 The groom and his family in terms of Dâure Daman customary law shall ask a woman's parents and elders for her hand in marriage.
- 16.7 Marriages entered into without the family's knowledge shall be considered to be doomed to fail and shall not be recognised unless the situation provides otherwise.
- 16.8 In terms of Dâure Daman custom and practice, the groom and his family shall pay a consideration called *lobola* to the bride's parents and/or family.
- 16.9 *Abba gomas* ("bride price") with a calf and/or any additional consideration shall be given in kind or in monetary terms.
- 16.10 Unmarried couples who live together as man and wife for a period of 5 (five) years pursuant to the promulgation of these statutes/laws shall be regarded as married under customary law.
- 16.11 If a traditionally married couple gets divorced, each partner shall receive 50% (fifty per cent) of the assets possessed in the traditional marriage and shall share equally in liabilities incurred during such union.
- 16.12 The property of any man who leaves his wife without just cause shall be allocated to her.
- 16.13 The property of any woman who leaves her husband without just cause shall be allocated to him.

## **Article 17: Inheritance**

- 17.1 The inheritance procedure in the Dâure Daman traditional community in respect of the distribution of the estate of a person who has died without leaving a valid will shall be as follows:
  - 17.1.1 In case of the death of a spouse, the surviving spouse and children shall be the sole beneficiaries of the deceased estate.
  - 17.1.2 In case of the death of a single parent with children, the deceased's children shall inherit equally.
  - 17.1.3 In case of the death of a person with no children or dependants, his/her parents and siblings shall inherit the deceased estate.
  - 17.1.4 Where both husband and wife die simultaneously, their children shall inherit the joint estate equally.
  - 17.1.5 In case of the death of parents where their children have abandoned the care of their parents or grandparents, the person who has been personally been taking care of such parent shall inherit the deceased estate.
    - 17.1.5.1 Where a single parent dies simultaneously with his/her children, both maternal and paternal families shall inherit the deceased estate.
    - 17.1.5.2 Where a married parent dies simultaneously with his/her children, the surviving spouse shall be the sole beneficiary.
- 17.2 In the case of Sub-article 17.1, children born outside marriage or adopted shall be treated equally for the purpose of distribution in a deceased estate.
- 17.3 In deciding the distribution of a deceased estate, the presiding Senior Traditional Councillor shall always consider what is just and equitably guided by natural justice.
- 17.4 After the distribution of an estate has been determined, the Senior Traditional Councillor shall submit the records of distribution to the *Gaob* for his approval before the final distribution is made.
- 17.5 No estate shall be distributed without due approval by the *Gaob*.

## **Chapter 7 (Articles 18 to 23)**

### **Article 18: Designation, removal and succession of the *Gaob***

#### **18.1 Designation of the *Gaob***

- 18.1.1 The Dâure Daman traditional community shall designate a *Gaob* at a community gathering convened for this particular purpose in accordance with section 4(1) (a) of the Traditional Authorities Act.
- 18.1.2 An incumbent *Gaob* who retires shall be entitled to appoint a *Gaob* in his place, failing which a Deputy *Gaob* shall take over the chieftainship, in turn failing which the Traditional Authority and the Council of Elders shall meet to nominate one or more candidates for election as the *Gaob*.

## **18.2 Removal and succession of the *Gaob***

### **18.2.1 Removal**

- 18.2.1.1 An incumbent *Gaob* shall be removed from office if he –
- (a) has grossly violated customary law
  - (b) is found guilty of serious misconduct, or
  - (c) suffers from ongoing ill health.
- 18.2.1.2 Such removal from office shall be executed solely by the Dâure Daman traditional community and in accordance with section 8(1)–(4) of the Traditional Authorities Act.

### **18.2.2 Succession**

- 18.2.2.1 The following criteria shall apply in the selection of a successor to the incumbent *Gaob*:
- (a) Only men shall be eligible to become *Gaob*.
  - (b) The candidate shall be older than thirty years of age.
  - (c) At least one of the candidate's parents shall be a bona fide member of the Dâure Daman as defined in Article 7 above.
  - (d) The candidate shall be heterosexual.
  - (e) The candidate shall have demonstrated an interest in, and shall indeed have a vested interest in, the Dâure Daman traditional community.
- 18.2.2.2 The Traditional Authority and Council of Elders shall appoint an Acting *Gaob* within 21 (twenty-one) days after the death and/or removal of the incumbent *Gaob*.
- 18.2.2.3 An Acting *Gaob* shall serve for a maximum period of 6 (six) months.

## **Article 19: Appointment of traditional leaders**

- 19.1 The Traditional Authority and the Council of Elders shall advise the *Gaob* in his selection of Senior Traditional Councillors and Traditional Councillors in accordance with section 10(1)(a)–(b) and (2) of the Traditional Authorities Act.

## **Article 20: Removal of traditional leaders from office**

- 20.1 A traditional leader shall be removed from office if he –
- (a) grossly violates customary law
  - (b) is found guilty of other serious misconduct solely by the Dâure Daman traditional community
  - (c) cannot maintain command of the community or discharge his duties due to ill health
  - (d) is found guilty by a state court of an offence defined in Schedule 1 of the Criminal Procedure Act, 1977 (No. 51 of 1977), or

- (e) perpetually undermines or compromises the Traditional Authority through his conduct.
- 20.5 In the case of misconduct, a traditional leader shall only be removed on the recommendation of a disciplinary committee duly appointed by the *Gaob*.
- 20.6 Any Traditional Councillor charged with a Schedule 1 offence in terms of the Criminal Procedure Act shall vacate his office or shall be suspended from his duties until the case against him has been finalised.

## **Article 21: Other organisational structures**

- 21.1 The Traditional Authority shall ensure the establishment of all Dâure Daman organisational structures.

### **21.2 The Youth League (!*Haos-!hān*)**

- 21.2.1 The Youth League shall be open to all unmarried young persons between the ages of 18 (eighteen) and 35 (thirty-five).
- 21.2.1 The functions of the Youth League shall be to –
  - (a) promote the culture and traditions of the Dâure Daman
  - (b) organise income-generating activities within the community
  - (c) represent the Dâure Daman traditional community in any cultural event, and
  - (d) contact and network with the youth groups in other Namibian traditional communities.

### **21.3 The Women's Council (*Taradi*)**

- 21.3.1 The Women's Council shall –
  - (a) be open to all married Dâure Daman women irrespective of their age, but no older than 59 (fifty-nine) years
  - (b) be open to all unmarried women between the ages of 26 (twenty-six) and 59 (fifty-nine)
  - (c) advise the *Gaob* on any matter
  - (d) organise festivals, and
  - (e) network with other Namibian women's groups.

### **21.4 Council of Elders (!*Khaire-ais*)**

- 21.4.1 The Council of Elders shall –
  - (a) be open to all male or female elders of at least 60 (sixty) years of age
  - (b) enlighten and guide the *Gaob* and the traditional community, including its youth, about Dâure Daman cultural norms, values and history
  - (c) mediate in any dispute in respect of amendments to Dâure Daman customary law

- (d) participate and offer advice in the selection of a candidate to succeed the *Gaob*, and
- (e) keep contact with the elders from other Namibian traditional communities.

## **21.5 The Men's Council (l*Gōs*)**

### **21.5.1 The Men's Council shall –**

- (a) be open only to men
- (b) be open to men only above 35 years of age
- (c) be a place where *Soxa xun* (“soccer matters”) are discussed
- (d) enlighten and guide the *Gaob*, the traditional community and the youth in respect of Dâure Daman cultural norms, values and history, and
- (e) discipline and guide the Youth League.

## **Article 22: Code of conduct**

- 22.1 All members of the Dâure Daman traditional community shall uphold and maintain the values as enshrined in these customary laws.
- 22.2 The traditional leaders of the Dâure Daman traditional community shall at all times respect and comply with the provisions of these customary laws and with any directive that emanates from such community.
- 22.3 Traditional leaders shall not directly or indirectly solicit or receive any gift or favour that may influence them in the exercise of their functions.
- 22.4 Traditional leaders shall uphold these customary laws and the wishes and aspirations of the Dâure Daman traditional community, and shall provide effective services to such community.
- 22.5 Traditional leaders shall cooperate with each other in trust and good faith by assisting, informing and supporting one another in matters of common interest.
- 22.6 Traditional leaders shall at all costs avoid instituting legal proceedings against each other.
- 22.7 Traditional leaders shall earn the respect and trust of the traditional community and shall lead by example.

## **Article 23: Establishment of special commissions, committees and institutions**

- 23.1 The *Gaob* shall be entitled to establish, control and observe special commissions, committees and institutions in the Dâure Daman traditional community that are set up to investigate, promote or facilitate any matter of concern within such community.

**Drafting, adoption and signing of these customary laws**

- A. The historic first session to draft the self-statement of the customary laws of the Dâure Daman traditional community took place in Uis on 10 October 2012.
- B. This first session was followed by a review and redrafting session at Houmoed on 17 February 2013.
- C. The final draft was reviewed and approved at Uis on 1 April 2013.
- D. These customary laws of the Dâure Daman traditional community were formally adopted by the community assembled in Uis during the Annual Cultural Festival of 2013.

Signed at Uis on 3 April 2013.

[Signed]

*Gaob* Elias Taniseb

Dâure Daman Traditional Authority

# CERTIFICATE OF CONSENT TO PUBLISH

## UNIVERSITY OF NAMIBIA

### FACULTY OF LAW

### HUMAN RIGHTS AND DOCUMENTATION CENTRE

#### RE: CONSENT TO PUBLICATION

I, the undersigned, Chief of the DAURE DAMAN Traditional Authority, hereby give consent to the Human Rights and Documentation Centre, to publish the following documents of the DAURE DAMAN Traditional Authority:

1. The Customary Laws
2. The Community Profile
3. Picture of the Chief
4. Logo of the Traditional Authority

I acknowledge that the Human Rights and Documentation Centre will publish the laws in our indigenous language (DAMARA), as well as the English language. I am familiar with the contents of the laws that will be published and further acknowledge that they were prepared by my traditional authority.

Signed on this 23 day of July 2013

At

E. T. T. T. T.

Chief

[Signature]

For HRDC: A. Gairiseb







**THE TSOAXUDAMAN TRADITIONAL AUTHORITY**  
**TSOAXUDAMAN DI !HAO!NÂSI ‡GAE‡GUIS**



The supreme leader of the Tsoaxudaman traditional community is  
*Gaob<sup>1</sup> Betuel Haraseb.*  
Date of designation: 17 March 2001



1 Traditional title in terms of section 11, Traditional Authorities Act, 2000 (No. 25 of 2000).

## PROFILE<sup>2</sup>

The Tsoaxudaman are a group living in the catchment area of the Tsoaxub (now Swakop) River. Their main seat is located at Atsab (Otjimbingwe).

The Tsoaxudaman inhabited parts of the !Khomashochland including the Tsoaxub River Valley; the area between the entire Khan River Valley, the Tsoaxub River and the Atsab Reserve (Otjimbingwe); as the areas surrounding Gei-!Khaes (Okahandja), Tsoaxub-ams (Swakopmund) and !Gome !Gams (Walvis Bay); and the area along the Tsoaxub River starting from Gei-!Khaes (Okahandja) to Tsoaxub-ams (Swakopmund).

Thus, the Tsoaxudaman are an indigenous, endogamous clan comprising families deriving from exogamous communities which share a common ancestry, language, cultural heritage, customs, and rites. They constitute the following groups:

- !Khuise-daman
- !Gaodaman
- !Noreben
- !Huren
- !Huon, and
- !Khai-!noan.

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2 This profile was provided by the Tsoaxudaman Traditional Authority.



**TSOAXUDAMAN DI ꦲHANUGU**



## Aimis

!Gam gangans lkha Abob Hoa!gaixab lîb tawa is sida di !gûlams tsî lgaethôas khoen disa hâbapa;

Sida di ailgûna †guro lan†gasasben nê !hûb din ase ge a mâiba tsî †ûsib !goaxa surib sida diba ra lapolapobaba;

†An!gâs sida !hûb di !hûhanub disa tsî sîsenlareb !Hao!nâsi †hanumâs (†Hanumâs 25, 2000 kurib dis) hîa ra ilkhâ kai kaibaba sida nî †khuni, sîsen†ui lgâ!ui, !khôgara tsî ai!gû kai sida di !hao!nâsilnaetib, gowab, †ûsib, tsî †goms hâna lnâpa i †gunihe tama daolgaudi mîsa !hu†hanub didi tsî !haosi †hanun naun dis !khas kâse;

Ai†homibasa !hao!nâsi †hanub tsî sîsen†uiba lgaumâis tsî tsî †an!gâs !hao!nâsi †gae†gui-aon dis, xoa!gâ!gâ !hûsâulkhâsi lgailgais, ai!gû kais !haosi lnaetib tsî †ûsigu, lgaigu, lgui-aidi tsî lāxasigu !Hao!nâsi †Gae†guis tsî !Hao!nâsi †Gae†gui-aon din, tsî lhon hâlara ra lnâs tawan;

Nêb ge !Hao!nâsi †Hanub Tsoaxudaman !Hao!nâsi !Hûhûsib dib diba, lîb hîa a !gao!gaob lîb ai in lîn di lnaetin, †ûsigu, sîsenlgaugu tsî dâ!harodi saogugudiga !gao!gao ai hâbaba.

## 1. Mi!ga!gadi

1.1 Nê !Hao!nâsi !Hanub !nâ, Hâna i ga !khoa †Gaiba lñiti lGâi†gui tama io –

- (a) **!Huhasi** ge ra †âibasen lnâ !gubis lan†gâ hâs †hanusilgaib Tsoaxudaman †Gae†guis lñakan
- (b) **lanin** Mâ lani-i Tsoaxudama !Hûhûsib diba xû i
- (c) **Halarora lanin** mâ lani-i !hûsihe ra Tsoaxudamana xûn !Hao!nâsi !Hûhûsib Tsoaxudamana xû hâb !Hao!nâsi †Gae†guis hui nî †Gae†gui-aonase is, hîa †gom!gâsas mîsa †Gae†guisa mâpa lguis Namibiab !nâs kas tsî lnîpa
- (d) **Sisen†Uira** !**Apemas** ge ra †âibasen lapemâs !nani lGapi !Hao!nâsi !Apemâ-aon tsî !Apemâ-aon, Xoa-ao-i tsî koros xa !nâsa tama kaira!nâ lanin mîsa !hûhûsiba xû hân
- (e) **Gaob/Chief** ge ra †âibasen Gao-i lnâ –i ra lgui!âhe !Hao!nâsi †Gae†guis †Hanumâs.2000, †Hanumâs 25 2000 kurib dis !nâse
- (f) **!Huhasi** !**Âpeb** ge ra †âibasen !Hûhûsi !Kharib lnâ –i ra lgui!âhe !Hao!nâsi †Hanumâs 2000!nî !hûb Tsoaxudaman !Hûhûsib dib tsîna !khâ†gâ hâse, tsî
- (g) **!Huhasi** !**Nau!ga!khaib** Kō †Hanumâs (†Hanumâs 10, 2003 kurib disa).

## 2. †Gae†guis

2.1 †Gae†guis danab ge dūdûb, lîb †namipe !haosa hâa. †Gae†guis danab ge lñitse !hûbahe tama, xawe ra lgaumâihe.

2.2 †Gae†guisdanab-Gaob lnâlaeb ai lgaumâisa Tsoaxudaman !Hao!nâsi †Hanub !naka, ge saolnâb hoaraga Tsoaxudaman !Hao!nâsi !hûhûsib ase ra hâ lnâb/s lîb/sa lgaumâibahe hâ !oas !nâ, tsî, lnâti ī !oa!û !Khodanas !amlarelgaugu tsî !tamas ka io, o !hao!nâsi !kharagagusib !kharagagu Damara !hûhûsigu din lkha a !gowelnôhe loa.

- 2.3 Nēs ge līb/sa lnāti ī !gāi!gā soas !nā ra mī īb/s nau !hao!nāde sauā!nāb tamas ka io, o ai!hūlam kais tamas ka io, o lguis khama ī lkhāl hūiba-i ose līb/s di lkhāba !nami†gā.
- 2.4 līb/s di lḡawi †gaimāibas beros disa †āil huri†gaogus di māsigu līb/s di sao!gonaon dis soab ai lkhāubaba, Gaob/s (Chief) ge ge †noaguna oresa hobas !nā †gowesen tide xawe lnāu!gā tsī oseresa nī hōbaba līb/s bēros lḡa †gaimāisenbababhe tsī lnaelḡauhe hā lhoga.
- 2.5 Gaob/s ge a lḡaumāisa lnāpa ib/s ga līb/sa nīkhama ī †gaolkhan hīa ra †gaolkhāhena ai a dilao, o lhūhāsiba ra tsālḡkhan !nā !oabas !aroma.
- 2.6 līb/s di ai!ḡū-aob/s di †gae†guis laeb ai ib/s ge līb/sa lkhāti –
- †gae†aosi !haros Tsoaxudaman lhūhāsib dis !nā ga hā a hā i:
  - †Orisase lnā Gaob/s lkha sisenlhao
  - †Gae†gui-aosis di saolnāuna nī lḡau tsī
  - lKhāti nī †hau!nā, †gom†gomsa tsī !garisisenxa tsī hoalae Gaob/s lkha nī hā hā i.
- 2.7 Ib/s ge nī lḡaumāihe līb/s di ai!ḡū-aob/s xa Sisen†ui ra !Apemās di mākolkhās tsī kain lnā lhūhāsib din lkha.
- 2.8 līb/s ge nī lḡaumāihe lōb līb/s di ai!ḡū-aob/s lkha tamas ka io, o līb/s di ai!ḡū-aob/s ga kairao, o tamas ka io, o, o lnī lḡaub ai laetama xa tamas ka io, o lkhoao!nā sisen†uis līb/s di †hanulī lḡui-aidi lkha o.

### 3. Mab, ai†hanugu, lḡaib, lḡui-aidi tsī lāxasigu Gaob/s din

- 3.1 lAra†ui hā †gaolkhādi nē !hao!nāsi †hanub didese, Gaob/s ge !haros, ai†hanugu, tsī sisenxasiba ū hā līb di beros Gaob/s !nā Gaob/s ase lnā hā !hao!nāsi †hanugu tsī lnaetigu Tsoaxudaman digu !oagu, tsī līb/s di lḡui-aidi tsīai†hanuga lnā a mīlḡuisa †hanugu tsī lnaetisasib Gaob/s !nailḡāhe hāgu !oagu.
- 3.2 Gaob/s ḡellībs di †hanu sisen†uiblīs lkhāsigu, lḡui-ain, ai hāb ge a anubabahe †gom†gomsasib, !ḡōasib tsī mā!ḡās tsī lnāulnanhesa hoaraga Tsoaxudaman xa, nēsīn ga lhūhāse ra †gari-aihe !āpeb tamas ka io, o lnās !auka a hā kas tsīna, lKhāti lnān hī Tsoaxudaman !hui-aisa xū hā taman xa is tsīna xawe līb/s di †gae†guis †haris !nā hān xa is tsīna.
- 3.3 Ge ai†nū-aosisa †nūdi lhūhāsi lapemās līb/s di !haos didi tawa nī ū (Tsoaxudaman).
- 3.4 Sisen†uis lḡui-aidi tsī lāxasigu din dis tsī sisen†ams lḡaugu līb/sa !nailḡāhe hān līb/sa !hao!nāsi †hanub xa is !oagus dis.
- 3.5 Ge †hanuba māhe hā –
- !am†ḡās lapemās disa !ḡāise !khodanas !aroma tsī ai!ḡū kais sisenxasib Tsoaxudaman disa, lnātanis †kamsib, taradi tsī kain lapemās dis
  - †Gao†gao!nās gagab lḡui!nāxasib dis Tsoaxudaman !nās, līn lNāu!asensa omkhās tsī ū!oas !reamxasib dis līn !gomsin !aromas tsī līn di aboxan †hanuga lkhālkhās
  - †Hanub tsī †hanu-aisiba sisen†ams tsī lapollapobabas !norasasib hoaraga Tsoaxudaman lhūhāsib tsī lnān lnā lkhariḡ !nā lan hān dib dib



- (d) #Gao#gao!nâs gaga-i aitsama khâibasens dis di-i lhûhâsib !nâs, mâxolkhâs tsî ai!gû kais projekn dis mâ !harib |guib ais kas xawes, !nâsa lkhâsib !nâ nî lamas ases
- (e) Haraharas !husâulkhâsi tsî lhûhâsi !edi hoaraga Tsoaxudaman lhûhâsib !aromas di |guitikosib !nâu!agus ais dis
- (f) #Gao#gao!nâs tsî ai!gûs kais |gau!nâs dis hoaraga Tsoaxudaman !aromas,lasa lkhâsigu |apolapos tsî ilkhâ kais !în texnise lkhâsigus dis dis
- (g) !Gâi!gâis #urusib tsî !amkusib mâsigu dis
- (h) !Gâi!âis lhûhâsi mâsigu lhûhâsib !nâ gu dis, !khô#gâ hâse omdibas, tsî ai!gûs
- (i) !Ase is !hao!nâsib, !haosi#usib tsî gowab Tsoaxudaman dib !kho|garas !nâs
- (j) |Gui-aisase !hao!gôakhâisa xoalguib ai ûhâs
- (k) #an#ans danab !hûb dîb dis tamâs ka io, o #Gae#guis dîb mâ-i ga lhô |gui i xawe !îls di lhûhâsib #amas, tsi
- (l) !îb/s ge tararekhoedi tsi |goan tsina |gai-lagu !oa ni lkhæba, tsib/s ge !æsa HIV/AIDs, |urub, #ubîb, #gab !oa ni lkhæba.

#### 4. #Nui#gas !amllares |Huhâsib dis

- 4.1 |Gapi !Hao!nâsi |Apemâ-ao-i ge nes |kha !am#gâsa mâ Tsoaxudama |Hûi!âs hoas !aroma.
- 4.2 Sîsen#ui ra |apemâs Gaob |Apemâs. |Apemâs ge !nani |Gapi !Hao!nâsi |Apemâ-aon, !Nani !Hao!nâsi |Apema-aon, Xoa-ao-I tsî !Nona !anin !na a mîsa lhûhâsi dina xû !amllaresa.

#### 5. |Gaigu, |gui-ain, tsî !laxasigu dana |apemâs sîsen#ui ra |apemas din

- 5.1 Sîsen#ui ra |Apemâs |Dana |apemâs ge Gaob/sa #Hanuba |hana tamase nî #an#an –
  - (a) !Ôb tamâs ka io, o lkhôlkhosa tsû-ai-i mâ khoe-i |gui-i di-i kas kas !îb/s di |kharib !nâs nes ga #khawadîb tamâs ka io, o!naetisa tamâs ka io, o !naetisa tama |gaub xa !aromabahes hoasa
  - (b) !Khopas tamâs ka io, o khorâ#uisens mâ-i ga #hiral ô |gui-i dis tamâs ka io, o #hilô is ailgaus HIV/AIDs !os
  - (c) mâs khama !naetisa tama û!oas, sîsenûs tamâs ka io, o #hanuo!nâ !îxûdîbaens lhûhâsib marîn tamâs ka io, o marînhôxû!khain #Hanub din tamâs ka io, o Tsoaxudaman lhûhâsib din
  - (d) ûhâs tamâs ka io, o xoalguisa ûhâs !nî mǎ-amsa tama #nûn dis |haos, tamâs ka io, !gûlhaos !îb/s dis |kharib !nâs
  - (e) mâ mǎ-amsa tama #gâs mâ-i ga khoe-i |gui-e i xawe i dis
  - (f) mâ mǎ-amsa tamase !gû kais ûitsaba xun dis
  - (g) mâ mǎsi-i tamâs ka io, o #khîonâsib, tsi

- (h) mâ xu-i |gui-i ka xawe !gâi!gâibaens lîbs di |hûhâsib !nâs lîb/s ta #âi Sîsen#ui ra lapemâs, Gaob/Chief tamas ka io, o #Hanub ga lî-i #ama a #ansa ûhâ I.
- 5.2 #Gans Gaob dis tamas ka io, o #Hanub dis ai –
- (a) #An#an tsî |gui!âs dâ!harodi mâ lasa #hanumâ-i tamas ka io, o |garagu lan#gâ-aon lîb/s di |kharib !nânî
- (b) Sîsenlares #hanulîn #Hanub #hanumâdi tsî #hanusi lāxasin sî |gui-ain !aromas, tsi
- (c) Dis aolguigu dis, mâ lapen dis tamas ka io, o mākō|khās Gaob/s Sîsen#ui ra |Ape mā s dis –
- (i) !Gaelaresa ûhâse dâ!harodi, |aro!nâdi tamas ka io, o !gâi!gâi!nâdi !û-ai marin, !û-ai |kharigu tsî |gamamdi dis
- (ii) !Gaelares dâ!haros tamas ka io, o !khâikhoms #gari lāxasigu khoen hîa #garis |guisa ra hî #gari-aon #amas
- (iii) !Gaelaresa ûhâse !khâikhoms !gôab ûitsabaxûn ûhâ|khân an #aman(kai tsî #kharilnûlgoan)
- (iv) !Gaelaresa uhâse mǎ-ams !ûkai #hanub disa lasa hǎ#gâxa-aon ais
- (v) !Gaelaresa ûhâse |gaigu hōs, û|hanas, mǎ-ams, tani!kharus, ūbasens tsî |honkhoebas tamas ka io, o #hanugu |hûhâse ra #gari-aihe !hûgu tsî |khawa hâ!khai #gari-ai!âdi #amas
- (vi) !Gaelaresa ûhâse dâ!haros matare tama is |nî |hōgu dis #amas tams ka io, o|kharamarin hîa !hao!nâsi |nâu!gâ!khaide xû ra hân #amas, tsi
- (vii) !Gaelaresa uhâse |gaigu tsâ|kha ra #haisa |khaubasens tsî.
- 5.3 Gaob ge ni –
- (a) !Nuri-oa Sîsen#ui ra |Ape mā s |gas !gaelaresa ûhâse mǎ-i ga dâ!haro-i lîb xa ra ûhe-i #amas !gûlare rase xoalguigu ne !hao!nâsi #hanumâs didi ra mîses
- (b) |Guixaba i re ai!gûkais tsî !khō|garas |hûhâsib di !gâi!gâibaens, sîsenna ilkhā kaibabas, |hûhâsi ai!gû kais tsî projekn omkhâis
- (c) !Khō|garas ! â!nâsi !norasasib dis |hûhâsiba ra tsâ|khâses, lō-aisase tararekhoedi tsî |gōan tsînas, tsi
- (d) Dis |gui-aidi tsî lāxasigu dis tsî sîsen#uis |gaigu lîb/s !nai|lgâhe hâ !hao!nâsi #hanub Tsoaxudaman dib ase, ailgauses –
- (i) HIV/AIDSa |khaes
- (aa) |Khâsi omkhâisbas !oabade ra mǎ khoen dis
- (bb) |Khaeba ra dî|gaugu hîa tsâhelkhā ôanaôagub ai !ammâisas
- (cc) |Khaeba ra dîl|gaugu hîa #khamsib ai !ammâisab
- (dd) |Khaeba ra dâ !harodi hîa hoa!nâ-aixa |hûhâsib ai !ammâisadi
- (ii) |Kha kaiba lae!khos, kho#homis tsi ma!gas !oabadi dis: |Khâsi omkhâis khora#uisa lae!khōs, !khō#homis tsî !nari!oabadi oe-ams lae!khōs |khō#homi !oabadi
- (iii) Sîsen#uib hui!nâ !oabadi
- (aa) Omkhâis |khâsigu !â!nâsi |hûhâsi oe-ambas dis
- (bb) !oabadi tsî hui!nâs !gunin tsî tsâ|khâsa |gōan dis, tsi
- (cc) Gowalîs |gâsib, #ûna |lapolapobabas tsî #ûlgaub.

## 6. |Gora#gādi #gae#guis !nâ hâdi

- 6.1 !Hao!nâsi |Apemās mû !ās 5lîsa.  
 6.2 Mû !ās 3.5 #Khamsib, taradi, tsî Kaikhoen |Apemās !aroma.

### 6.3 !Nâu!gâ!khaib

- 6.3.1 Tsoaxudaman di !nâu!gâ!khaibge ĀTSĀB (Otjimbingwe).  
 6.3.2 !Nāb ge nî !khāsixa, !khāl!hûi tama tsî !īmābaen hâ!nâu!gâ!khai ī. !Khāti !āxasigu !khodana tsî !gaiba ūhâ, #gae#guis !nâ hâ tsî #hanu-ai mîlguiga ū!oa tsî !aorohes ose.

#### 6.3.3 !am!areb !nau!ga!khaib dib

- (a) !Hao!nâsi #gae#guis ge !am!areb !nâu!gâ!khaib diba nî !apolapo, !nās hîa |gora!gâ-aon, mǎxol!khā-aon tsî sîkhoena nî !khō#gāsa.  
 (b) Hoaraga !anin !nā go a |gawika mîhe #aigu !nân ge nî !ani-i !anhe hâ !hûhāsib dina! nîkhama !lkhāsigu !kha.  
 (i) |Gora!gâ-aon  
 (aa) |Gora!gâ-aon ge !khāl!khāsens !gâ!huba nî ūhâ, !lîn ge a sîsen!û hâ !gau!nâ-aon, !awa!namn, !hûhâsi #gae#gui-aon tamas ka io, o kerkheb di #gae#gui-aona.  
 (bb) !În ge nî #hau!nâ, #gom#gomsa tsî nî anusasib ūhâ !hûsiba hoalae nî #hâpasa i apa is tsîna !lkhā.  
 (ii) Mǎxol!khā-aon  
 (aa) #Nû!khaeba sîsenao-i !hûhâsi !nâu!gâ!khaib Tsoaxudaman hîa i ge !lîs!ba !gaumâibaheba tsî nē soab !nâsîsen!ui !gaigu tamas ka io, o xoalguisa !hao!nâsi #hanugu !hûhāsiba sîsenxapa tsî nē !hûhāsib xa ra sîsenuhepa tsî.  
 (bb) Ge hoaraga !gui-aidi tsî !āxsiga nî di!oa tsî !khāti nî sîsen!ui !gaigu !lîb/s ai !guihe hâ !lîb/s di !hao!nâsi!nâu!gâ!khaib Tsoaxudaman dib xa, tsî nîra mû!am tsî hoaraga !āxasin !nâu!gâ!khaib dina.  
 (iii) Si-aon  
 (aa) !Hûhâsi !nâu!gâ!khaib ge sî-aoana nâ !gaumâi, !lîn ge kaise nî #gom!gāsa khoe-i.  
 (bb) Hî hoaraga !gui-aidi tsî !āxasina nî sîsen!uina tsî nî sîsen!am !gaigu.

### 6.4 !Khaub

- 6.4.1 Tsoaxudaman ge !lîn di !uru !am !khaub !lîn aboxan diba ūlgara hâ, hîa !âubasenni, ti ra #gaiheba (hîa ra !Âubasenni, ti #âibasenna). !Khāti ra #nû!khaeba !gui!nâxasib sida khoen, !hûb, !uib, !hana#gā !lkhāsib tsi hain diba.

## 6.5 †Kharub (Gaohaib)

6.5.1 †Kharub ge nî kuruhe.

## 6.6 †Hao!nâsi-ams

6.6.1 †Khaugoa;Tsoaxudaman ge †Gûba lîn di saolgaus ase ra sîsenû †Gaimâisens.

## 7. †Gaolkhadi sisenni didi

7.1 Sîsen!ui ra komitees (lnāpa 5lî !âb !nâ †gui!asase) ge laeba xû laeb †ga sîsen!ui †gaolkhâde a †apolapo †khâ †gora!gâ-aon tsî maxō!khâ-aon tsî sî-aon dina sîsen!areb Ministris †Hanu-aisib dis †kha.

7.2 Mataredi tsî †nau!ommarin ge nî matarehe Ministris †Hanu-aisib dis xa, 10lî !âs (†Hanumâs !gôas 2003 kurib dis) †hûhâsi †nâ!gâ!khaigu †Hanumâs, 2003.

7.3 †lîn ge nî sîsen koro (5) kuriga !gae†gasîsens ai.

## 8. Bērosa xû †oas

8.1 †Gôra!gâ-âo-i, mǎxō!khâ-ao-i tsî sî-ao-i ge bērosa xû nî †oa hâna is!b ga –

(a) †lîs!ba a †oa, o †nā bēros !nâ a sîsen!ûo, o sî†khanis !nâ-û †an†ans †kha o tsî †nâti

(b) †lîs!b sao!gâgu ra laeba !nona †khâgu diba †lîs!b di †gui-aide xû ka ra mǎ-ams ose †khaio

(c) †lîs!ba a †hawixao !gû†am-i hîa is!b †lîs!ba ge !khō-om†nûihese xoremarisa matare tamaseo, tamas ka io

(d) †lîs!b di laeb bēros !nâ sîsens diba a †oao, ai†homisase hâna is!b †lîs!ba †khawa a †gaumâihe †khâse o.

## 9. Sisen!u kais †gawi †awema-aon, †awema-aon tsî xoa-i dis

9.1 Gaob ge †Hoalares Sîsen!ui ra Komitees dis!kha †awemǎ lani-i tamas ka io, o xoa-ao-i †ama a †amlare †khâ, †nāpa i †nā †hpba kaise †ōrisase ôa!nâ!kharuhe toas †hao!gâ.

9.2 †Nâti †!û†ams ge !nona (3) !nāde sao!gâgu rase ga i a hâ i tsî †nās †khās xase †Hanuba ga †an†anhe hâ i.

9.3 †Khâti i ge †nāsa !nona !nâdi di xoasa !khâikhoms xa hoalae ga saohe hâ i.

9.4 Tsin ge sîsenna xû a !gû kaihe †khâ –

(a) ai!gû ra †uruo!nâsib xa !araomabhe hâse

(b) †aulorasisib †lîs!b di sîsen-i !aromas !aroma

(c) †lîs!b †oa!nâsasib †lîna !gâi †gaub ai di tama is !aroma, tamas ka io

(d) !gâi tama tanisens xa !aromabahe hâse.

## 10. !Gâi tama tarisens

- 10.1 Dana lawemā-aob, lawema-aob tamas ka io, o xoa-ao I ge lhawia !gâi tama tanisens ʔama hana islb ga –
- (a) nē !hao!nâsi ʔhanumās di aiʔhomisa di !â-e a !ûʔamo tamas ka io, a !onkhao, o !nā aiʔhomidi lkha !hûlguitimîsao, !nāti i soab !nāpa islb !lisba di !gui-ai !nāti i aiʔhomisi lkha !hûlguitimîsa
  - (b) !â!namixa tamas ka io, o, o-ai i o, o !lisb di !gui-ai e sîsenʔuis !nâ
  - (c) !gâi tama !gaub !nâ a tanisenso, mûsa tamas aka io, o anu tama !gaub !nâo
  - (d) kaise !gausa !gaub !nâ !gausa âxûna a sîsenuo, o tamas ka io, o !huwulhuwuxuna !aedi-aob di xoalguib ose
  - (e) mǎ-ams sîsenʔui ra komitees is ose!oa tamas ka io, o !nî khama i laro!nâs, mari-i tamas kaio, o mǎdawa-am-e a ʔgaolkhāo, !lisb anuba tama hâ-e a dio !lisb di !harosa !gaidîs ase, tamas ka io, o sîsenʔuis ase tamas ka io, o a !nākhao o !nāsa Sîsenʔui ra Komitees tawa !nuri tamase tsî mari-i tamas ka io, o !nî khama i mǎdawa-ame
  - (f) !gaitanisens lkha a !hawilhawisenso, tamas ka io
  - (g) mǎ-ams tamas ka io, o !gaoxa tama !aroma-i !aroma ʔkhāa o, !lisb di ʔhanusi sîsenna disa a ʔkhā o.

## 11. Sîsen!ûs kairasib xa !aromabhe hâs

- 11.1 Sida di !hao!nâsib !nâ i ge !nāpa kurigu !ara-e a !khai, !nāpa i !ani-i !nā !hûhâsib di-e ʔuru, !gaisase ra sîsen tsî ʔgomʔgomsase.

## 12. !Oaloas !khai!nâ soadi dis

- 12.1 Hâna-i ga sîsensoa-i !Apemā-ao-i tsî, Xoa-ao-i di-e a !khai!nâ o, o is ge !nā soasa xoalguigu !haosi ʔhanub digu !oagu nî !oaloahe.

## 13. ʔHaisa ʔhanumās

- 13.1 !Hûhâsi !Nâu!gâ!khaib ge xoalguigu nē !hao!nâsi ʔhanub dis !naka hâ tamas ka io, o !nî !nā !khâsiba ūhâ ʔhanu-i !naka!nâu!gâs (!gâ, !nâu!gâ !gora!gâ,) tsî nî ôa!nâ, !gôa!gon tsî gowaʔuisa mǎ tsî hoaraga ʔhaisa !hōgu hîa Tsoaxudaman !Hao!nâsi ʔGaeʔguis di ʔharis !nâ hâna.
- 13.2 !Gaib !hûsi !nâu!gâ!khaib dib ge, !nâ-i ra khoen di surudega tsâ!khâse i ge !gaugu mǎga a hâ !nâu!gâs digu tsî !gaub mǎ-i ga a mîlgui xawe ra ūheb, gowaʔuisens, !kharab tamas ka io, o xoalguib hîa nî sîsenʔamheb sîkhoen xab, ge !hao!nâsi ʔhanub Tsoaxudaman dib lkha nî !gau.
- 13.3 .Aiʔhomidi hîa ne ʔhanusi!âs !nâ hâdi ge !hûhâsi !nâu!gâ!khaiba ra !gai!gai ib ʔhaisa !hōga !nâu!gâ –

- (a) ʔnoagudi hîa ga lanʔgaon Tsoaxudaman di ʔharis !nâ hîana
- (b) !nâpa !gamme-i ga xoalnâ tamas ka io, o a xoalgorahepa, tamas ka io
- (c) !nâ khoe-i di mâb di!gaos !naka mâpa.

## 14. ʔKhawadib !nau!gadi

- 14.1 !Hûhâsi !nâu!gâ!khaib ge
- (a) aiʔhomidi nê !hao!nâsi ʔhanub didi tamas ka io, o !nî !naetisa ʔhanub !naka mâse
  - (b) ʔâu/oa hâ hoaraga ʔkhâwadîb !hōgu hîa in lanʔgâ-aon hîa Tsoaxudaman di ʔharis !nâ hân hâ!nâna a !nâu!gâ !khâ tsî
  - (c) !hao!nâsi ʔhanub ta xoalguise a !nâu!gâ !khâ.
- 14.2 !Khâsib !hûhâsi !nâu!gâ!khaib dîb ge !nâ. khoen tamas ka io, o !gûʔamde -i ra tsâ!khâe, !gaugu !nâs ai!â tamas ka io, omâ !nâu!gâ-i hoa-i ai!â, !khōʔgâ hâse ʔhanub !kharigu !aromaba.
- 14.3 !Gui-ais Namibiab !awa!namna in mâ ga a hâ !ûʔama-oi hoa-e !khōsis !nâ-û
- 14.4 !Nâ ʔûsib !îb !nâ-û i mâ ga a hâ ʔhanusi gowaʔusen-i tamas ka io, o gowaʔuisen-i hoa-e !Hao!nâsi ʔHanub xa nî sîsenʔuihesa.
- 14.5 !Hûhâsi !nâu!gâ!khaib ge ni !Gailgaihe ib mûʔam sao ra ʔKhawadi-gai.
- (a) !Narib
  - (b) !Aorogus
  - (c) !Gâu!nâpe ʔkhawadîb
  - (d) !Gôa !Garos
- 14.6 !nâu!gâ!khaib !Gailgaihe ib aipe hâ ôa!nâde dî tsî !nâs !kha ra!gû!lare ʔHanusi ʔGaeʔguidi !kha saora ʔkhawadîgu ʔama sîsenlare:
- (a) !Gams
  - (b) ʔHanusi !ana!gâs
  - (c) !Gai!khōs
  - (d) ʔAnapeka Khoe!gams
  - (e) ʔHaisa ʔkhawadîb
- 14.7 !Nî ga a hâ dîsa-i hîa mǎ-amsa tama ʔharugus tamas ka io, o ûhâs !apun, ʔnoaxûn, !Huixûn, !Huwulhuwuxûn tamas ka io, o! Noreluin dis tsî !nâti.
- (a) Ge !gaiba nî ûhâ !kharaba gowaʔuisa hîa !lōb, ʔnau!s (khoe-i dis) tamas ka io, o !khō!khōsase tsûtsûs ʔama.
  - (b) Ge a !gailgaisa !khō!khōsa !kharab !oagu gowaʔuisensa.
  - (c) Ge a ʔkhâsa, aiʔhomidi !gao!ās 14.5(a) dis !oagu sorosi ʔnausa khoe-i ai d î ʔuisa.

## 15. ʔGaimasendi

- 15.1 Khoe-i hîa ga ʔhaisa !āxasib !nâ tsûbahe i, mî!gui-i tamas ka io, o ʔhanusigowaʔuisen-i !hûhâsi !nâu!gâ!khaib xa dîhe hîa i ʔama i, tamas ka io, o!kharab, tamas ka io, o !guiʔam-i !nâs !kha ra !gû!larese i xase i ge, !nonadisi (30) !aeb !nâ xoʔharugus !nâ-û (Gaob !apemās) Sîsenʔui ra Komitees !ga a ʔganamasenhe !khâ Gaob !ga !nâti î mî!guib, gowaʔuisens, !kharab, tamas ka io, o !gui-ais !oagu, !nâ ib !hōba a ise.

- 15.2 Khoe-i hî #khawadĩb di lhōb !nâ hâ i ga dītōasisa a tsâ, gowa#uisen-i tamas ka io, o !kharab !hûhâsib !nâ!gâ!khaib di hâ #ama o,i ge !nona (30) tsēdi laeb !nâ xoa#harugus !nâ- ū a Sisen#ui ra komitees !ga tsî Gaob ai nî !khaelnâhese, Gaob !oagu a #gaimâisen !khâ !nāti ī gowa#uisens tamas ka io, o !kharab !oagu, !nâ ib !hōba ise.
- 15.3 Gaob ge 14 tsēdi laeb !nâ xoa#harugusa !khō!oas #gaimâisens #an#ans dīsās khao!gâ #gaimâisensa !hoa!gâ, !aroman goa#uisens dides tsî xoa!guigu !āxsigu diga, !īb di Sisen#ui ra Komitees, !gora!gâ-aogu, mākō!khâ-aon, xoa-aos!b tsî sikhōen tsîn !kha.
- 15.4 !Nâ!gâs !nāti ī #gaimâisens di soab ai ib ge Gaoba !nās !kha ra !gû!are #noabasende nî !gâ tsî xoamâi tsî !nâsa #haisa !āxasib di laeb ai nî sisen#ui.
- 15.5 !Nâ soab !nati i #Haisa !ōb !nâ.
- (a) !Khō!gâs mîlguib tsî gowa#uis dis, !nâ ib nî !hōba !gausense.
- (b) !Khō!gâs !kharab dis tamas ka io, o !gui-ais dis tamas ka io, o hoara !kharab tsî !hûhâsi !nâ!gâ !khaib dīb hâra dis, !nâ ib nî !hōba !gausense, tsî nî !gui#am !nāti ī !kharab tsî gowa#uisens nî sisen#uihe tsî !nās ase sisen#amhesa tamas ka io, o !b !nāti ī !kharab tamas ka io, o!gui-aisa tamas ka io, o hoalgamra !kharab tsî !gui-ais hâra hoara, !nâ ib nî !hōba !gausense, nî sisen#uihesa.
- 15.6 !Nâ soab !nāti ī #khawadĩb di lhōb !nâ
- (a) !Apollapos !hapi#gā-ams disa tsî
- (b) !b !kharab hîa go !gui-aihe !hûhâsib !nâ!gâ!khaib xa ib !apolapohe tsî !gui-aihe !nāti ī !kharab nî sisen#uihesa tsî !nâulnamhesa tamas ka io, o
- (c) !s #gaimâisensa !khō-oahe tsî !kharab tsî gowa#uisensa !gui !khab ai mîihe, !nâ ib nî !hōba !gausense.
- 15.7 Gaob, !īs!b di sisen#ui ra komitees !kha !hao hâse, !gâi !nâ!agus !hao!gâs, !hoa!gâ tsî nî ôa!nâ mîlguib, gowa#uisens, !kharab tamas ka io, o !gui-aisa !nāti ī mîlguib !oagu, gowa#uisens, !kharab tsî !guia-aisens, !nâ ib nî !hoba !gausense, !nāti ī #gaimâisens a !gaoxa tamas kaio, o xû-e harebe tamasa; Gaob ge nî !gui-ai !nāti ī !hōb nî sisen#amhe tamas ka io, o māk!kharuhe !nâ !kharib di Maxastrāb !nâ!gâ!khaib !ga !khaisa.
- 15.8 !Ū#amao-i ge #hanuba ūhâ Maxastrāb di !Nâ!gâ!khaib !ga #gaimâmâisens !aroma #ganamsensa.
- 15.9 !Nāpa i ga #gaimâisen-e mîlgui-i, gowa#uisen-i, !kharab tsî !gui-ais !oagu a !gui#gahao, !nâ ib nî !hōba ise, o i ge sisenxa kaihes !nāti ī !kharab tams ka io, o !gui-ais di -e laeb di !gauba sisenxa kaihe tide !nāti ī !hōb di !gû!nâ!gaub xa !aromabahe hâseb !oagu.

## 16. !Kharab !Hûhâsib !Nau!gâ!khaiba sisenxa iba a hîa soras dis dīb

- 16.1 Tarita-i !gui-i ka xawe ga !nâ!gâ- ai#homidi #hanumā!ās 14-15, hâsa #anapeka !Ani-i !Hûhâsi !Nâ!gâ!khaib di-e mîlga!gai, tamas ka io, o !nâ!gâdi !Hûhâsi !Nâ!gâ!khaib dide nē tamas ka io, o nau !gaus ai a !khom!nâ i ge !īs!ba !gâi tama

tanisens ai ra |hawilhawisen lnā !khais lnā lnāu!gās ūhâhe hâs tawa tsî |kharahē |khā N\$500.00 xa |oro tama maris |kha tamas ka io, o |khā |gaub !nâ ti ī hîa ra |gui-aihegu ge #Khawadîb Xoamâi!nâ #Khanis !nâ nî xoamâihe.

## 17. Xoamâis |laxsigu dis

- 17.1 Xoa-ao-i ge hoaraga |hōgu, hîa |Hûhâsi |Nâu!gâ!khaib xa ral nâu!gâhega, |oaase nî xoamâi.
- 17.2 tsî hoarga |kharagu |nâti ī |nâu!gâ!khaib xa gowa#uihe hâgu ge #Khawadîb Xoamâi!nâ #Khanib !nâ nî xoamâihe.

## 18. Xoa-aob/s |Hûhâsib |Nâu!gâ!khaib di

- 18.1 Xoa-ao-i ge |Hûhâsib |Nâu!gâ!khaib di-i ge xoamâi |gaulgaus matares disa |hawilhawihe hâ-i tamas ka io, o |kharasa surude-ao-i di-e, |nâ ib |hōba #khanib !nâ nî xoamâisase.

## 19. Matares marin tsî |kharas dis din

- 19.1 Hoaraga marin tsî mataredi Xoa-aos|b xa ra !kho!oahen |kharimarin ase |Hûhâsi |Nâu!gâ!khaib xa ra |gui-aihen tamas ka io, o |kharamarin |gui-aisan Sîsen#ui ra komitees tsî Gaob xa in |gui-aidi #hanumâ!âs 16(4) ta |gui!asen ge kaise i |khā i as kose !haese, |nū in ga a !khō!oahes tamas ka io, o a |hao|haohes toas khao!gâ |Hûhâsib Mari#gæs !nâ nî mât#gâhe.
- 19.2 !Khō!oas tsî mât#gās #haweb ge Xoa-aos|b |Hûhâsib |Nâu!gâ!khaib dis|b tawa |gaulgaus ase nî hâ.

## 20. Sâus #hanusi #khanin dis

- 20.1 Xoa-ao-i |Hûhâsib |Nâu!gâ!khaib di-i ge hoaraga #hanusi #khanin, mât#gâlgaulgaun, !nurigu, #khawadîb xoamâi!nâ #khanin, tamas ka io, o hâxoamâi!nâ#khanin tamas ka io, o |khawillnân |nân din, |nâ ib nî |hōba ise, !khō!oahē hâ |îs|b xa in, xoa#huihe gen, ai#homihe gen tamas ka io, o ūhâsn xoalguigu ne !hao!nâsi #hanub ta mîse, !norase nî ūhâ, tsî |nâti ī #hanusi #khanin, mât#gâlgaulgaun, !nurigu tamas ka io, o hâxoamâi!nâ#khanin ge #gaolkhâs !oagu hoalae nî hohesa ôa!nâs !aroma Sîsen#ui ra Komiteess xa, |gora!gâ-aon |Hûhâsib |nâ!gâ!khaib din tamas ka io, o |kharib Maxastrâb tsî tamas ka io, o #hanu#ansen xa, |nâ ib nî |hōba îse.

## 21. !Haosi#ūsib

- 21.1 Tsoaxudaman ge #hanuba ūhâ !amlare#gaua tsî |anises |în |gui-aidi dina |în di xoalguilguigu !oagu lapolaposa.



- 21.2 Tsoaxudaman ge #hû hâ tsi |guil|guibe #hanuba ûhâ !khô|gara tsî omkhâis|lîn |gurihâ |gau#uisen |gaugu tsî #ûsiba !hû|lîn ase tsî |nâti #anhes dis disa.
- 21.3 Tsoaxudaman ge #hanuba ûhâ ûiûis tsî sîsen#uis |lîn di !hao!nâsi |naetigu disa –
- (a) nês ge !khô#gâ hâ #hanub !khô|gara, |khauba, tsî omkhâis |gelaeb, nêhâlaeb tsî !goaxalaeb |lgaugu |lîn !hao!nâ|naetigu disasa, ailgause |khowolkhowo-ôa!nâ tsî |gae#hôaxa !khaigu, kurukairaxûn, |nô|nâgu, |lâudilgaugu, texnoloxib tsî mûsa tsî |gau#ui #andi tsî |khomei#khanin tsî
- (b) |khâti |nâ #hanub !gâi!gâis !hao!nâsi, elosi tsî gagasi ûhâsib |lîn di mǎ-ams tsî #ans ose in ge a |hanahen tamas ka io,!û#ams |lîn di #hanugu dis, |naetigu tsî #ûsiga.
- 21.4 Tsoaxudaman ge #hanuba ûhâ ûi#uis, sîsen#ams tsî |khâ|khâs |lîn gagasi tsî elosi |naetigu, #ûsigu tsî disa di|lâxasigu disa, #hanub !khô|gara, |khauba, tsî |gurisasiba ûhâsa |lîn di elosi tsâ !hao!nâsi !khaidi tawa, sîsenûs tsî ko!gâs |lîn di di|lâxasi sîsenûxun dis, tsî #hanub oahâ-ûhes |lî, |lô#oage khoen di #khôn disa.
- 21.5 Tsoaxudaman ge #hanuba ûhâ ûiûis, sîsenûs, omkhâis tsî tani!kharus !goaxalaeb di surib |ga |lîn di gowagu dis, tsî |gaumâis tsî !khô|garas |lîn di #hûnûmâ |londi |hûhâsigu, !khaidi tsî khoen didi disasa.
- 21.6 Tsoaxudaman ge #hanuba ûhâ #nûi#gâs |lîn #hunumâ #hōa#ui!khaib disa |lîn #hunumâ gowab !nâ.
- 21.7 |lîn ge |khâti #hanub hoarga gaugu !hao!nâsi-tama #hōa#uidi di tawa soasa ûhâs dis disa.
- 21.8 Tsoaxudaman ge #hanuba ûhâ sîsen#ams |lîn #hunumâ sô|oan tsî #urusib !oabadi !aroma, !khô#gâ hâse #hanub |khaubas kaise #hâ#hâsa solôa hain |gurun tsî !hûsiluib |dîn disa.

## 22. !Hub

- 22.1 Tsoaxudaman ge #hauba ûhâ hō-oas !hûb tsî |kharigu |lîna ge |hanahe, |lan-aihe, sîsenûhe tamas ka io, o a #khôadiheba |lîn di mǎsenxa tsî #an tama is !nâba, tsî nês ga |lloasa iba, |nâugu tsî #hanu-aise mǎdawa-ambahes ge !norasase a |nâugubahe |khâ |nās |kha !gaelaresa uhâ khoen |kha.
- 22.2 Mǎdawas ge |gaub !hûb tsî |khariga |lorodomma |hanhe ge !hûb di kaiseb tsî |guitikosiba tsî #hanusi |gaiba nî ûhâ.



## THE LAWS OF THE TSOAXUDAMAN



# Preamble

With deep gratitude to God Almighty, with whom the destiny of our community and the history of our people rests;

Who placed our ancestors as the first inhabitants in this country and who determined the ways of generations of our people;

In acknowledgement of the Namibian Constitution and in accordance with the Traditional Authorities Act, 2000 (No. 25 of 2000), which enables us to enjoy, exercise, express, preserve and further our culture language, tradition, rites and faith, as long as doing so does not detract from the stipulations of the said Constitution and common law or the rights of others;

To provide for the establishment of community customary law and the designation, appointment and recognition of traditional leaders; to define the economic empowerment; advancement; culture and rites; powers, duties and functions of our Traditional Authority and traditional leaders; and to provide for matters incidental thereto;

This is the customary law of the Tsoaxudaman traditional community, which is the basic law on which their traditions, norms, usages and rules of procedure are founded.

## 1. Definitions

1.1 In this constitution, unless the context indicates otherwise, –

- (a) **community** shall mean the group inhabiting the territory under the jurisdiction of Tsoaxudaman Traditional Authority
- (b) **member** shall mean any member of the Tsoaxudaman traditional community
- (c) **additional member** shall mean any member co-opted from the Tsoaxudaman traditional community by the Tsoaxudaman Traditional Authority to assist the leadership, and who is entrusted to represent the said Authority anywhere in Namibia or elsewhere
- (d) **Executive Council or Chief's Council** shall mean a Council consisting of six Senior Traditional Councillors and Councillors, a Secretary, and no more than five elderly members from the said community
- (e) **Chief** shall mean a Chief as defined in the Traditional Authorities Act, 2000 (No. 25 of 2000)
- (f) **communal area** shall mean the communal area as defined in the Traditional Authorities Act, including any other land belonging to the Tsoaxudaman community, and
- (g) **Community Court** shall have the meaning accorded to it in terms of the Community Courts Act, 2003 (No. 10 of 2003).

## 2. The chieftainship

2.1 The Chief (*Gaob*) is the pivotal person around whom the clan exists.

2.2 The Chief is never elected: s/he shall be designated.

- 2.3 Once duly designated under Tsoaxudaman customary law, the Chief shall remain the symbol of unity of the entire Tsoaxudaman traditional community in respect of which s/he was designated and, as such, cannot be directly associated with the administrative structures and/or the cultural diversity of the various Damara communities. This puts him/her in the fortunate position of embracing all other clans without any fear or favour, and without any bias on his/her part.
- 2.4 To protect his/her high office from conflict situations with his/her subjects, the Chief shall not be involved in the settlement of disputes, but shall hear and resolve cases referred to his/her office on appeal.
- 2.5 The Chief shall be designated once s/he meets certain criteria in serving the community's concerns.
- 2.6 During their predecessor's reign, the designated Chief shall have –
  - (a) served within the leadership of the Tsoaxudaman traditional community
  - (b) shown leadership qualities
  - (c) proved to be honest, loyal and hardworking, and
  - (d) been with the incumbent Chief at all times.
- 2.7 The Chief shall be designated by his/her predecessor with the assistance of the Executive Committee and the community elders.
- 2.8 A new Chief shall be designated upon the death of the incumbent Chief or if the incumbent Chief has become too old to execute his/her official duties, or has become negligent in or apathetic towards such duties.

### **3. Status, privileges, power, duties and activities of the Chief**

- 3.1 In accordance with the terms of this customary law, the Chief shall have the status, privileges and functions of the office of Chief according to the traditional laws and customs of the Tsoaxudaman and shall perform his/her duties and privileges in terms of the rights and customs accorded to the Chief.
- 3.2 Upon the proper execution of his/her powers, functions and duties, the Chief shall be entitled to the loyalty, honour, support and obedience of all the Tsoaxudaman, irrespective of whether they live within or outside the communal area, including those who are not of Tsoaxudaman origin, but who reside in the Chief's area of jurisdiction.
- 3.3 The Chief shall assume the chair at Tsoaxudaman traditional council meetings.
- 3.4 The Chief shall execute the duties and activities and exercise the powers given to him/her by the customary law.
- 3.5 The Chief shall be empowered to –
  - (a) establish a committee to further the effective administration of and to advance the productivity of the Tsoaxudaman, as well as to establish a youth, a women's and an elders' council
  - (b) stimulate a spirit of unity between the Tsoaxudaman to develop their understanding and acceptance of responsibility for their own problems, and to teach them their ancestral laws
  - (c) maintain law and order and ensure the safety of the entire Tsoaxudaman community as well as others living in the area

- (d) stimulate a spirit of entrepreneurship in the community, render assistance to them, and promote projects that will increase productivity in any field where quality is enhanced
- (e) widen the economic and social opportunities for all members of the Tsoaxudaman community on an equal basis
- (f) encourage and advance the education of all members of the Tsoaxudaman community in order to ensure they develop new skills and enhance their technical abilities.
- (g) improve the health of and the hygienic living conditions of the community.
- (h) improve social conditions in the community, including housing and welfare
- (i) be instrumental in preserving the culture, traditions and language of the Tsoaxudaman
- (j) keep records of the population
- (k) advise the head of state or the government on any matter concerning the Tsoaxudaman community, and
- (l) be the patron for protecting women and children against inhuman evils which may damage their social life, and to protect the community from pandemics such as HIV and AIDS, drought, veld fires and and floods.

#### **4. Structure of the community**

- 4.1 A Senior Traditional Councillor shall be instituted for each Tsoaxudaman constituency.
- 4.2 The Executive/Chief's Council shall consist of six Senior Traditional Councillors, six Traditional Councillors, a Secretary, and three members from the Tsoaxudaman community.

#### **5. Powers, duties and activities of the Executive/Chief's Council**

- 5.1 The Executive/Chief's Council shall immediately inform the Chief and/or government of –
  - (a) the death or serious injury of any person in his/her area of jurisdiction as a result of violence or due to natural or unnatural causes
  - (b) the outbreak or spread of any pestilence or infectious disease, including the spread of the HIV and AIDS pandemic
  - (c) any irregular acceptance, use or unlawful appropriation of public money or funds of the government or the Tsoaxudaman community
  - (d) the holding or proposed holding of any unauthorised meeting, assembly or gathering in his/her area of jurisdiction
  - (e) the unauthorised entry of any person
  - (f) any livestock grazing unlawfully
  - (g) any condition of unrest or discontent, and
  - (h) anything in the interest of the community and of which the Executive/Chief's Council, Chief or government should be aware.
- 5.2 At the request of the Chief or the government, the Executive/Chief's Council shall –

- (a) announce and explain the stipulations of any new law, ordinance or regulations to the residents in the community
- (b) cooperate with government officials executing policy or other official activities and duties, and
- (c) make recommendations and give advice or assistance to the Chief/ Executive Council as regards –
  - (i) the stipulation, amendment or adjustment of grazing fees, grazing areas and water points
  - (ii) the regulation or prohibition of farming activities of persons who are not bona fide farmers
  - (iii) the restriction of the number of large or small stock that may be kept
  - (iv) the granting of grazing rights to newcomers
  - (v) the Traditional Authority's powers concerning the acquisition, alienation, granting, transfer, occupation and ownership of rights in regard to communal land and resettlement farms
  - (vi) action taken against someone for not paying a penalty or other fine imposed by the Community Court, and
  - (vii) powers concerning civil defence.

5.3 The Chief shall –

- (a) report to the Executive Council in connection with any action taken by him/her in compliance with the stipulations of this customary law
- (b) be instrumental in furthering and upholding the interests of the community, creating jobs, and implementing social upliftment and development projects
- (c) maintain the local security of the community, especially women and children, and
- (d) perform the duties and activities and execute the powers vested in him/her by the Laws of the Tsoaxudaman such as –
  - (i) HIV and AIDS prevention
    - (aa) capacity development of service providers
    - (bb) prevention interventions that target vulnerable populations
    - (cc) prevention interventions that target young people
    - (dd) prevention interventions that target the general population
  - (ii) creating access to treatment, care and support services
  - (iii) impacting mitigation services
    - (aa) developing capacity for local community responses
    - (bb) services and support for orphans and other vulnerable children, and
    - (cc) addressing poverty, food security and nutrition.

## 6. Organisations within the Traditional Authority

- 6.1 See section 5 above on the Executive/Chief's Council.
- 6.2 See section 3.5 above on youth, women's and elders' councils.



### **6.3 The Community Court**

6.3.1 The Tsoaxudaman Community Court shall be established at Atsab (Otjimbingwe).

6.3.2 The Community Court shall –

- (a) be a competent, impartial and independent court
- (b) take control of the proceedings, and
- (c) have the power to be in charge and to take fair decisions without fear of intimidation.

#### **6.3.3 Composition of the Community Court**

- (a) The Traditional Authority shall determine the composition of the court, which may include judges, assessors and messengers.
- (b) All persons in the aforementioned positions shall be members of the Tsoaxudaman community with the following qualities:
  - (i) Judges
    - (aa) Judges shall be educated at a tertiary level, e.g. they can be retired teachers, policemen, community leaders or church leaders.
    - (bb) They shall be honest and loyal, and shall have the required dignity to serve the community at all times when needed.
  - (ii) Assessors
    - (aa) The assessor shall act as a clerk of the Tsoaxudaman Community Court for which s/he is appointed, and shall, in this regard, exercise the powers assigned to him/her in terms of the Laws of the Tsoaxudaman.
    - (bb) The assessor shall perform all duties and functions and exercise such other powers which are conferred on or assigned to him/her by the Tsoaxudaman Community Court, and shall manage and control all court proceedings.
  - (iii) Messengers
    - (aa) The Tsoaxudaman Community Court shall appoint messengers who are extremely trustworthy persons.
    - (bb) The messengers shall perform such duties and functions and exercise such powers as are conferred on or assigned to them by executive instruction.

### **6.4 Flag**

6.4.1 The Tsoaxudaman shall retain the original green flag of their ancestors, which is known as *!Aubasen* (“expectation”), and represents unity among the people, the land, the minerals, the agricultural potential, and the vegetation.

### **6.5 Mace**

6.5.1 [The mace still needs to be made.]

## **6.6 Anthem**

6.6.1 [The anthem still needs to be composed.]

## **6.7 Emblem**

6.7.1 The Tsoaxudaman shall use the springbok as their totem.

## **6.8 Motto**

6.8.1 [The motto still needs to be composed.]

## **7. Conditions of service**

7.1 The Executive/Chief's Council as defined in section 5 of these Laws of the Tsoaxudaman may from time to time determine the conditions of service of judges, assessors and messengers in collaboration with the Ministry of Justice.

7.2 The remuneration and allowances shall be paid by the Ministry of Justice, subject to section 10 of the Community Courts Act.

7.3 Judges, assessors and messengers shall work for a contractual term of 5 (five) years.

## **8. Vacation of office**

8.1 A judge, assessor and messenger shall vacate his/her office if –

- (a) s/he resigns from such office by way of a written letter or some other equivalent formal notice
- (b) s/he is absent from duty without permission for a continuous period of longer than three months
- (c) s/he is convicted of an offence in respect of which s/he is sentenced to imprisonment without the option of a fine, or
- (d) his/her term of office expires, provided that s/he may again be appointed.

## **9. Discharge of a Senior Councillor, Councillor or Secretary**

9.1 The Chief shall be empowered, in consultation with the Executive/Chief's Council, to dismiss a Council member or Secretary after a very careful investigation of the case.

9.2 The offence of which the Council member or Secretary has been found guilty shall have been committed 3 (three) times consecutively, and shall have led to the issuance of 3 (three) associated written warnings, which shall be produced as evidence in the dismissal.

9.3 The government shall be notified of such dismissal.

- 9.4 A Council member or Secretary may also be dismissed if s/he –
- (a) suffers from continuous ill-health
  - (b) is unsuited to perform the duties concerned
  - (c) is incapable of performing such duties competently, or
  - (d) is found guilty of misconduct.

## **10. Misconduct**

- 10.1 A senior Councillor, Councillor or Secretary shall be found guilty of misconduct if s/he –
- (a) violates a provision of the Laws of the Tsoaxudaman, or fails to comply with such a provision where it is his/her duty to do so
  - (b) is negligent or apathetic in the execution of his/her official duties
  - (c) conducts him-/herself in a disgraceful, unseemly or improper manner
  - (d) makes excessive use of strong drink or drugs without a doctor's prescription
  - (e) without the permission of the Executive/Chief's Council, accepts or demands any commission, money or any other reward to which s/he is not entitled as a result of his/her position or as a result of the execution of his/her functions or in performing his/her function, or neglects to report without delay to the Executive/Chief's Council an offer of commission, money or any other reward
  - (f) commits a misdemeanour, or
  - (g) without permission or a valid reason refuses to carry out his/her official duties.

## **11. Retirement as a result of old age**

- 11.1 In the Tsoaxudaman culture, there shall be no age limit for serving the community in an official or unofficial capacity, provided that the community member concerned is healthy, hardworking and trustworthy.

## **12. Filling of vacancies**

- 12.1 If a post of Councillor or Secretary falls vacant, such post shall be filled in the appropriate manner and in accordance with the provisions of the Laws of the Tsoaxudaman.

## **13. Civil jurisdiction**

- 13.1 Subject to the provisions of the Laws of the Tsoaxudaman or any common law, a Community Court shall be competent to hear, judge and adjudicate as well as investigate, prosecute, pronounce judgment on and sentence all civil cases that arise in the area of jurisdiction of the Tsoaxudaman Traditional Authority.

- 13.2 The jurisdiction of the Community Court, insofar as it applies to a person's debt, the procedure at any hearing, and the manner in which any decision, judgment, sentence or order is carried out by the messenger, shall be in accordance with the Laws of the Tsoaxudaman.
- 13.3 The Community Court shall be empowered to hear civil cases –
  - (a) in a dispute among the inhabitants of the area of jurisdiction of the Tsoaxudaman
  - (b) where the nullity or dissolution of a marriage is at stake, or
  - (c) where the status of a person is in question.

## **14. Criminal jurisdiction**

- 14.1 The Community Court shall –
  - (a) be subject to the provisions of the Laws of the Tsoaxudaman or of common law
  - (b) be competent to try all criminal cases involving members of the communities residing in the Tsoaxudaman area of jurisdiction, and
  - (c) adjudicate in accordance with the Laws of the Tsoaxudaman.
- 14.2 The Community Court shall have jurisdiction over persons resident in or transgressions occurring in its area of jurisdiction.
- 14.3 The Community Court may request the Namibian Police to detain any transgressor.
- 14.4 The Community Court shall grant judgment and/or impose sentence in terms of this customary law.
- 14.5 The Community Court shall be empowered to deal with the crimes of –
  - (a) theft
  - (b) intimidation
  - (c) domestic violence
  - (d) failure to comply with a child maintenance order.
- 14.6 The Community Court shall be empowered to assist the government authorities with preliminary investigations relating to the following crimes:
  - (a) Murder
  - (b) High treason
  - (c) Rape
  - (d) Culpable homicide, and
  - (e) Public violence.
- 14.7 In respect of any transgression that applies to the unlawful trade or possession of firearms ammunition, explosives, drugs or gems, etc., the Community Court shall be –
  - (a) empowered to call for any punishment that will result in death, mutilation or serious injury, but not if such punishment contravenes the Namibian Constitution or international law
  - (b) empowered to call for severe punishment
  - (c) prohibited, subject to the provisions in paragraph 14.5(a), from applying corporal punishment.

## **15. Appeals**

- 15.1 A person who, in a civil action, feels aggrieved in respect of a Community Court decision or judgment or any other sentence or order given in consequence thereof shall have the right, within 30 (thirty) days by written notification directed to the Executive/Chief's Council, appeal to the Chief against such decision, judgment, sentence or order, as the case may be.
- 15.2 A person who, in a criminal case, feels aggrieved in respect of a Community Court conviction or sentence, shall have the right, within 30 (thirty) days by written notification directed to the Executive/Chief's Council and delivered to the Chief, appeal to the Chief against such conviction or sentence, as the case may be.
- 15.3 The Chief shall, within 14 (fourteen) days of receiving the notification of appeal, discuss the appeal, the reasons for the judgment and the minutes of the proceedings with his/her Executive/Chief's Council Secretary as well as the Community Court judges, assessors and messengers.
- 15.4 At the hearing of such appeal, the Chief shall listen to the relevant evidence and record it.
- 15.5 In the case of a civil action, the Chief shall thereafter –
  - (a) confirm the decision and judgment, as the case may be
  - (b) confirm the sentence or order or both the sentence and order of the Community Court, as the case may be, and instruct that such sentence or order or both such sentence and order, as the case may be, be carried out and complied with or set aside, and that a suitable sentence and/or order, as the case may be, be imposed.
- 15.6 In the case of a criminal action, the Chief shall –
  - (a) confirm the conviction
  - (b) confirm the sentence imposed by the Community Court and instruct that such sentence be carried out or complied with, or
  - (c) uphold the appeal and instruct that the conviction and sentence be set aside, as the case may be.
- 15.7 The Chief shall have the right to instruct judges to impose the sentence or transfer the case to the District Magistrate's Court.
- 15.8 The perpetrator shall have the right to appeal to the District Magistrate's Court.
- 15.9 Where an appeal has been lodged against a Community Court decision, judgment, sentence or order, as the case may be, the enforcement of such sentence or order shall be suspended pending the result of the appeal.

## **16. Contempt of court**

- 16.1 Anyone who, at a hearing held according to the stipulations of clauses 14 or 15, purposely insults a member of the Community Court, interrupts Community Court proceedings, or in any other manner makes him-/herself guilty of misbehavior where the hearing is being held, shall be punished for such transgressions by way of a fine of at least N\$500 (five hundred Namibia Dollars) in cash or in kind.

## **17. Recording of proceedings**

- 17.1 The Secretary shall, in all cases heard by the Community Court, properly record all the evidence.
- 17.2 Any sentence imposed by the Community Court shall be noted in a Criminal Records Register.

## **18. Criminal Records Register**

- 18.1 The Secretary of the Community Court shall note the written proof of receipt of payment to the accused or sentence debtor, as the case may be, in the Criminal Records Register.

## **19. Payments of cash and other fines**

- 19.1 All cash and other fines received by the Secretary as a result of penalties imposed by the Community Court or fines imposed or confirmed by the Executive/Chief's Council or the Chief shall, as speedily as possible after having been received or collected, be paid into the Community Trust Fund.
- 19.2 A receipt and deposit slip shall be lodged with the Secretary to the Community Court for recordkeeping.

## **20. Safekeeping of documents**

- 20.1 The Secretary to the Community Court shall place all documents, receipts, reports, criminal registers or any copies thereof, as the case may be, received by him/her, issued, provided or held in accordance with the stipulations of the Laws of the Tsoaxudaman, in safekeeping, and such documents, receipts, reports or registers shall be available for inspection on request at all reasonable times by the Executive/Chief's Council, the judges of the Community Court, the District Magistrate, and/or a lawyer, as the case may be.

## **21. Culture**

- 21.1 The Tsoaxudaman shall have the right to determine the structures of the traditional community and to select the membership of such structures in accordance with their own procedures.
- 21.2 The Tsoaxudaman shall have the collective and individual right to maintain and develop their distinct characteristics, identify themselves as indigenous, and be recognised as such.
- 21.3 The Tsoaxudaman shall have the right to revitalise and practise their cultural traditions, which shall include the right to –

- (a) maintain, protect and develop the past, present and future manifestations of their culture, such as archeological and historical sites, artefacts, designs, ceremonies, technologies, visual and performing arts, and literature, and
  - (b) the restitution of cultural, religious and spiritual property taken without their free and informed consent or by way of the violation of their laws, traditions and customs.
- 21.4 The Tsoaxudaman shall have the right to –
- (a) manifest, practise and teach their spiritual and religious traditions, customs and ceremonies
  - (b) maintain, protect, and have access in privacy to their religious and cultural sites
  - (c) the use and control of ceremonial objects, and
  - (d) the right to the repatriation of human remains.
- 21.5 The Tsoaxudaman shall have the right to revitalise, use, develop and transmit to future generations their languages, and to designate and retain their own names for communities, places and persons.
- 21.6 The Tsoaxudaman shall have the right to establish their own media in their own languages.
- 21.7 The Tsoaxudaman shall have the right to equal access to all forms of non-indigenous media.
- 21.8 The Tsoaxudaman shall have the right to their traditional medicines and health practices, including the right to the protection of vital medicinal plants, animals and minerals.

## **22. Land**

- 22.1 The Tsoaxudaman shall have the right to the restitution of lands and territories which have been confiscated, occupied, used or damaged without their free and informed consent, and where this is not possible, just and fair compensation shall freely be agreed upon by the people concerned.
- 22.2 Such compensation shall take the form of lands and territories at least equal in quality, size and legal status to the property thus confiscated, occupied, used or damaged.

## CERTIFICATE OF CONSENT TO PUBLISH

UNIVERSITY OF NAMIBIA

FACULTY OF LAW

HUMAN RIGHTS AND DOCUMENTATION CENTRE

**RE: CONSENT TO PUBLICATION**

I, the undersigned, Chief of the Tsoaxudaman Traditional Authority, hereby give consent to the Human Rights and Documentation Centre, to publish the following documents of the Tsoaxudaman Traditional Authority:

1. The Customary Laws
2. The Community Profile
3. Picture of the Chief
4. Logo of the Traditional Authority

I acknowledge that the Human Rights and Documentation Centre will publish the laws in our indigenous language (Khoe-Khoe-Gowab) as well as the English language. I am familiar with the contents of the laws that will be published and further acknowledge that they were prepared by my traditional authority.

Signed on this 03 day of August 2012

At Ojimbingwe.

Chief B. Haraseb

Chief



For HRDC: A. Gairiseb



TSOAXUDAMAN TRADITIONAL  
AUTHORITY ATSAS  
Tel +264 (0) 64 531073 Fax: +264 (0) 64 551046  
Ojimbingwe  
P.O. Box 403 Karibib



**THE |GAIODAMAN TRADITIONAL AUTHORITY**  
**|GAIODAMAN DI !HAO!NÂSI ‡GAE‡GUIS**



The supreme leader of the |Gaiodaman traditional community  
is *Gaob<sup>1</sup>* J Max Haraseb.  
Date of designation: 15 February 1990

## |GAIO DAMAN TRADITIONAL AUTHORITY



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1 Traditional title in terms of section 11, Traditional Authorities Act, 2000 (No. 25 of 2000).

## PROFILE<sup>2</sup>

### 1. The area of the !Gaiodaman

The area of the !Gaiodaman, comprising land with which they developed a spiritual as well as economic relationship, is known as Damaraland Ward 6 and Ward 10, and includes ancestral land and the environs of the Parais Mountains as well as any other land from which the !Gaiodaman were forcibly removed.

The !Gaiodaman, whose heritage and leadership structures were crushed by the German colonial regime, inhabited the areas around !Hob, Gomaxas, Waterberg, #Kanubes and the #Esebriver catchments, to !Guidi-!Gams (Omaruru).

The communal land of the !Gaiodaman is traditionally governed by the !Gaiodaman Traditional Authority. All trees, whether or not they bear fruit, belong to the Traditional Authority. All types of livestock, whether bought as assets, collected as payment or lost and brought to the Traditional Authority for safekeeping are seen as the wealth of the traditional community.

### 2. The history of the !Gaiodaman

The !Gaiodaman are one of eight clearly consolidated and confirmed Damara clans with their own social organisations and totems. Thus, differences are, among other things, clearly visible in their marriage and funeral ceremonies. The name !Gaiodaman is a derivative of a term denoting an ancient bear, but their totem is a lion because, according to their ancient custom, it was believed that their dead in time transformed into a lion. As such, they did not bury their remains: they only moved them away.

This group, whose historical heritage and leadership structures were crushed by the German colonial regime, inhabited the areas around !Hob, Gomaxas, Waterberg (proper), #Kanubes and the #Eseb River catchments to !Guidi-!Gams (Omaruru). After the implementation of the recommendations made by the Odendaal Commission, in the early 1960s they were moved to the Grootberg (Gai-!Uis) area, Ward 10, and the Braunfels area, Ward 6, of Damaraland. Therefore, the !Gaiodaman have the right to determine their structures and to select the membership of their institutions in accordance with their own procedures.

The Namibian Constitution enables us to enjoy, exercise, express, preserve and further the !Gaiodaman culture, language, tradition and faith, provided that doing so does

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2 This profile was provided by the !Gaiodaman Traditional Authority.

not contravene any constitutional provision. The |Gaiodaman are united by oath and allegiance to restore and honour their history.

### **3. The leadership of the |Gaiodaman Traditional Authority**

The leadership structure is made up of the Chief (*Gaob/Gaos*), Senior Headmen, and Junior Headmen.

#### **3.1 |Gaiodaman Royal House**

The |Nawabeb royal bloodline, in accordance with ancestral customs and norms, are bestowed with the secret trust to designate or remove the Chief. The Chief appoints his/her own successor. If the Chief dies without having appointed a successor, the |Nawabeb royal family will appoint one. A Deputy who is not related to the Chief serves as Vice Chairperson to the Traditional Council in the absence of a Chief.

Senior Headman (Senior Traditional Councillors) and Junior Headmen (Traditional Councillors) are appointed by the Chief for a five-year term. They can be removed if they have not attended three consecutive meetings without a valid reason.

Traditional leaders should set an example. They are expected to be friendly, joyful, patient, humble, tolerant and honest, as well as impartial in the administration of justice.

All traditional leaders are required to know the people under their leadership and to establish a good relationship with them.

#### **3.2 Traditional Authority Secretary**

The Secretary is appointed by the Chief's Council for a term of five years. His/her functions are as follows:

- To maintain the office of the Traditional Authority
- To attend to all correspondence
- To record all Council meetings
- To file all documents related to the Chief's Council
- To carry out all administrative duties assigned to him/her by the Chief and Senior Headman, and
- To receive and record all payments made to the Traditional Authority.

### **4. The |Gaiodaman traditional cultural centre**

The traditional cultural centre, also known as the palace or head office, is at Marienhöhe. When the Chief resigns or dies, his/her successor takes up residence at the palace.

## **5. !Gaiodaman culture**

The !Gaiodaman culture has to be respected. Parents are expected to raise their children in accordance with !Gaiodaman culture in order to maintain the traditional values and norms for current and future generations.

The local language of Damara (Khoekhoegowab) has to be encouraged and urged to be spoken at all times. The wearing of appropriate and acceptable traditional costume should also be encouraged. The colours white and red symbolise peace and courage, respectively.

The traditional dances, songs and poems that distinguish the !Gaiodaman community should be preserved and promoted.

## **6. Community care and health care**

Every Village Head is required to ensure that the elderly in his/her village receive a pension and drought relief. Traditional leaders are to ensure that pension pay points are safe, clean and in a good state to offer such services. Whoever is seen or heard to have stolen money or other belongings from the elderly will be charged and punished by a court of law.

Health care to the entire community has to be secured by the Traditional Authority in order to have a peaceful and civilised society. Alcohol should be restricted.

All traditional healers are obliged to be registered with the Traditional Authority in order to protect the community against imposters. Traditional healers who can heal the sick with herbs, roots or leaves and can treat madness and snakebite, for example, should be recognised and respected. The community should also promote those who are gifted and skilled in crafts, praising or singing.



## THE LAWS OF THE |GAIODAMAN<sup>3</sup>

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3 The laws were submitted in English only.





# 1. Preamble

WITH GRATITUDE to God Almighty, with whom the destiny of nations and the history of the !Gaiodaman people rest, for our ancestors who determined the ways of living of our people for generations to come

ACKNOWLEDGING the Namibian Constitution, which enables us to enjoy, exercise, express, preserve and practise !Gaiodaman culture, language, tradition and faith as long as it does not conflict with any constitutional provisions, and

UNITED by oath to restore and honour the history of the !Gaiodaman, who were forced to leave their customary land which resulted in the destabilisation of the !Gaiodaman, the loss of our culture, and extreme humiliation by the prejudiced coloniser

WE NOW THEREFORE accept this law as the foundation of the !Gaiodaman tradition and cultural activities.

Prepared in terms of the !Gaiodaman customary law from 7 October 2003 to 31 October 2003 at Outjo by the first !Gaiodaman Traditional Authority recognised according to *Government Gazette* No. 2733 of 30 April 2002 to –

- (a) further regulate the powers of the Chief of the !Gaiodaman
- (b) appoint and recognise the Chief (*Gaob/Gaos*) of the !Gaiodaman
- (c) further regulate the powers of the Chief's Council
- (d) regulate the jurisdiction of the !Gaiodaman Traditional Authority, and
- (e) provide for further subsidiary concerns.

# 2. Definitions

## 2.1 *Communal land*

The land with which the !Gaiodaman have developed a spiritual as well as economic relationship, known as Damaraland under colonial rule, including ancestral land, as well as any other land from which the !Gaiodaman were forcibly removed and would get back in future or any land received as compensation for such land that was alienated

## 2.2 *Royal House*

The !Nawaben Family Members' Assembly, who, by virtue of the authority vested in them with respect to the royal bloodline according to this customary law, shall designate or remove the Chief in conjunction with the Chief's Council, subject to the provisions of the Traditional Authorities Act, 2000 (No. 25 of 2000), and specifically subject to the provisions of sections 4, 5 and 6 therein

**2.3 Chief (Gaob/Gaos)**

The Chief of the |Gaiodaman, who shall preferably be from the royal bloodline, and shall be designated as such by the Royal House in collaboration with the Chief's Council

**2.4 Chief's Council**

The second-highest decision-making body in the |Gaiodaman community, in accordance with the Traditional Authorities Act, 2000 (No. 25 of 2000)

**2.5 Traditional Authority**

Instituted in terms of the Traditional Authorities Act, 2000 (No. 25 of 2000)

**2.6 Senior Traditional Councillor/Traditional Councillor**

A community member appointed by the Chief in accordance with section 10 of the Traditional Authorities Act, 2000 (No. 25 of 2000)

**2.7 Congress**

The third-highest decision-making body under the |Gaiodaman structures

**3. Area of jurisdiction**

The area of jurisdiction of the |Gaiodaman is determined in Part 1 of the Schedule to *Government Notice* 114 of 2009, "Recognition of /Gaio-Daman [sic] Customary Court as community court and appointment of assessors and justices: Community Courts Act, 2003".

**4. Main seat**

The main seat of the |Gaiodaman Traditional Authority shall be in Marienhöhe, Grootberg area, Sesfontein Constituency, in the Kunene Region.

**5. Emblem**

The golden head of the lion in the coat of arms shall be the |Gaiodaman emblem.

**6. Colours**

- 6.1 The colours of the |Gaiodaman community shall be red, white and gold.
- 6.2 Red shall symbolise traditional heritage and love.
- 6.3 White shall symbolise peace.
- 6.4 Gold shall represent the Kingdom of the |Gaiodaman that can be traced back to 1715.

## **7. Flag**

7.1 The flag of the |Gaiodaman shall be composed as follows:

- (a) A wide horizontal band of red at the top
- (b) A wide horizontal band of white in the middle, in which the golden head and mane of a lion appears, and
- (c) a wide horizontal band of red at the bottom.

## **8. Anthem**

There shall be an anthem for the |Gaiodaman community. Proposals for the anthem shall undergo scrutiny through the various structures of the |Gaiodaman before final adoption.

## **9. Organs of the |Gaiodaman traditional community**

### **9.1 |Gaiodaman Traditional Authority**

9.1.1 There shall be a Traditional Authority for the |Gaiodaman traditional community.

9.1.2 The establishment, powers, duties, and functions of the |Gaiodaman Traditional Authority are subject to those defined in the Traditional Authorities Act.

### **9.2 |Gaiodaman Assembly**

9.2.1 The |Gaiodaman Assembly shall be the supreme decision-making body.

9.2.2 The Assembly shall be held annually at a venue and date to be determined by the Traditional Authority.

9.2.3 The Assembly shall be attended by –

- (a) at least 10 (ten) members from the |Gaiodaman Traditional Authority, and
- (b) at least 1 (one) representative from recognised |Gaiodaman branches throughout Namibia.

9.2.4 At least 15 (fifteen) delegates present at the Assembly shall constitute a quorum to take binding resolutions.

### **9.3 Royal House**

9.3.1 The |Gaiodaman Royal House shall consist of |*Nawaben* family members by virtue of the authority bestowed on them with respect to their royal bloodline in accordance with this very customary law.

9.3.2 In addition, the Royal House shall consist of appointed members from different organs of the |Gaiodaman Traditional Authority.

9.3.3 The representatives of the |Gaiodaman Traditional Authority and the |Gaiodaman Chief's Council shall be ex officio members.

9.3.4 The main functions of the Royal House shall be to –

- (a) select, after consultation with the Chief of the |Gaiodaman and the members of the clan, the successor to the Chief in accordance with the rules of succession in the regulations.<sup>4</sup>
- (b) remove the Chief from office, provided there is sufficient reason to warrant such removal, and provided further that such removal occurs in accordance with section 8 of the Traditional Authorities Act, and
- (c) designate the selected candidate as Chief of the |Gaiodaman in terms of sections 4.5 and 6 of the Traditional Authorities Act.

## 9.4 Chief's Council

9.4.1 There shall be a |Gaiodaman Chief's Council, established in accordance with the Traditional Authorities Act.

9.4.2 The Chief's Council shall be the second-highest decision-making body when the |Gaiodaman Assembly is not in session.

9.4.3 The main function of the Chief's Council is to run the day-to-day administration of the |Gaiodaman Traditional Authority.

## 10. The Chief (*Gaob/Gaos*)

10.1 The Chief shall be the supreme traditional leader of the |Gaiodaman traditional community.

10.2 The Chief shall be selected from the royal bloodline, in this case the |Nawaben bloodline.

10.3 The Chief shall be at least 35 (thirty-five) years of age.

10.4 The Chief shall be the custodian of |Gaiodaman customs, norms, traditions, values and heritage, and shall exercise his/her powers and perform his/her duties in terms of the provisions of the Traditional Authorities Act.

10.5 The inauguration of the Chief shall be done only by a person from the royal bloodline or someone of equal authority to the Chief.

10.6 The inauguration shall be done in Damara (Khoekhoegowab).

10.7 The inauguration procedures shall be included in the regulations to this customary law.<sup>5</sup>

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4 At the time of printing, the regulations had not yet been finalised by the |Gaiodaman traditional community.

5 At the time of printing, the regulations had not yet been finalised by the |Gaiodaman traditional community.

## **11. Senior Traditional Councillors and Traditional Councillors**

### **11.1 Appointment to office**

- 11.1.1 Senior Traditional Councillors and Traditional Councillors shall be appointed by the Chief in consultation with the Traditional Authority and the community concerned, and in accordance with the Traditional Authorities Act.

### **11.2 Duties and functions**

- 11.2.1 The duties and functions of Senior Traditional Councillors and Traditional Councillors shall be as follows:
- (a) To advise and inform the Chief, Chief's Council and the Traditional Authority on any matter without delay, including matters concerning –
    - (i) any irregular acceptance, use or unlawful appropriation of public money or funds
    - (ii) the holding or proposed holding of any unauthorised meeting, assembly or gathering in his/her area or branch
    - (iii) any livestock grazing unlawfully in his area or branch
    - (iv) any condition of unrest or discontent in his/her area or branch, and
    - (v) anything in the interest of the community that s/he deems important for the Chief to know about.
  - (b) At the request of the Chief, to announce and explain the stipulations of new laws or regulations to the residents in his/her area or branch.
  - (c) To cooperate with government officials and police officers in the execution of government policies and in maintaining law and order in his/her area or branch, and to refrain from acts which undermine the authority of those institutions.
  - (d) To make recommendations, give advice or offer assistance to the Chief, the Chief's Council and the Traditional Authority in connection with the adjustment of grazing fees or Community Trust Fund fees in connection with –
    - (i) restricting the number of livestock, including small and large stock, that may be kept in his/her area or branch or on a particular farm, subject to the Communal Land Reform Act.
    - (ii) the granting of grazing rights to newcomers in his/her area or branch in accordance with the Communal Land Reform Act.
    - (iii) action taken against the non-payment of such fees or of rent in his/her area.

- (e) To be instrumental in furthering and upholding the interests of the community in his/her area or branch, and
- (f) To perform the duties and functions and execute the powers vested in him/her by the Traditional Authorities Act and this customary law or by the traditional |Gaiodaman rights and customs.

### **11.3 Term of office**

- 11.3.1 The term of office for Senior Traditional Councillors and Traditional Councillors shall be five years. The first such Councillors were appointed on 30 April 2002.
- 11.3.2 A Senior Traditional Councillor or Traditional Councillor may be reappointed by the Chief in conjunction with the community.

### **11.4 Disqualification and dismissal**

- 11.4.1 A Senior Traditional Councillor or Traditional Councillor shall be disqualified from holding office or dismissed –
  - (a) if s/he dies.
  - (b) as a result of poor health.
  - (c) if s/he resigns.
  - (d) if s/he has been absent from three consecutive Traditional Authority meetings or any other meeting within the structures of the |Gaiodaman traditional community.
  - (e) due to negligence in his/her duty or ability to perform his/her duties professionally.
  - (f) if s/he is found guilty of an offence and has been sentenced without the option of a fine, or
  - (g) as a result of misconduct, defined as –
    - (i) not complying with the provisions of this customary law
    - (ii) negligence in performing his/her official duties.
    - (iii) the excessive use of alcohol or drugs without a doctor's prescription
    - (iv) being absent without leave or a warranted reason
    - (v) refusing to resume or assume his/her official obligations or duties, or
    - (vi) disregarding the authority of the |Gaiodaman Kingdom or the |Gaiodaman Traditional Authority.

## **12. Meetings**

### **12.1 Congress**

- 12.1.1 A Congress shall be convened for the |Gaiodaman Traditional Authority.

- 12.1.2 The Congress shall have the power to amend or repeal any |Gaiodaman law, including customary law, and also to pass resolutions regarding such law.
- 12.1.3 The Congress shall be held annually and shall precede the annual |Gaiodaman festival at Outjo.
- 12.1.4 The Congress shall be advertised at least 30 (thirty) days prior to being held.
- 12.1.5 Agenda points shall be handed in 21 (twenty-one) days prior to the Congress.

## **12.2 Traditional Authority meetings**

- 12.2.1 The Traditional Authority shall have meetings quarterly, that is every three months.
- 12.2.2 These meetings shall be attended by the Chief, the Secretary, Senior Traditional Councillors and Traditional Councillors only.
- 12.2.3 Such meetings shall discuss any matter of concern to the traditional community, including customary law or conduct.
- 12.2.4 The Traditional Authority shall be entitled to invite anyone else to their meetings.
- 12.2.5 The quorum shall be 13 (thirteen) members present and voting.
- 12.2.6 The Chief shall have the casting vote in the event of a tie in votes.
- 12.2.7 Any traditional leader who fails to attend 3 (three) consecutive meetings without a valid reason and without being duly excused by the Traditional Authority automatically discharges him-/herself from office.
- 12.2.8 The proceedings shall be accurately recorded by the Traditional Authority.

## **12.3 Community meetings**

- 12.3.1 General and extraordinary community meetings shall be held by the |Gaiodaman Traditional Authority.
- 12.3.2 These meetings shall be open to every member of the community.
- 12.3.3 The meetings shall be convened by the Chief and his/her Councillors whenever it is necessary.
- 12.3.4 The purpose of the meetings shall be either to consult the community or to give general information to pass crucial binding resolutions.

## **13. The Community Trust Fund**

- 13.1 A Community Trust Fund shall be established for the |Gaiodaman traditional community in accordance with sections 4 to 13 of the Traditional Authorities Act.
- 13.2 Regulations shall be made on how the funds in the Trust Fund are to be utilised.

## **14. Use of traditional titles**

- 14.1 Nothing in the Traditional Authorities Act shall preclude the traditional community from addressing the Chief, Senior Traditional Councillors and Traditional Councillors by the traditional title accorded to such offices.

- 14.2 Such traditional title shall not derogate from or add to the status, powers, duties or functions associated with the office of a traditional leader as provided for in the Traditional Authorities Act.
- 14.3 |Gaiodaman traditional titles shall henceforth be as follows:
  - (a) *Chief* shall be *Gaob* or *Gaos*.
  - (b) Senior Traditional Councillor shall be *Dana |Awema-aob* or *Dana |Awema-aos*.
  - (c) Traditional Councillor shall be *|Awema-aob* or *|Awema-aos*.

## **15. Settlement of disputes**

- 15.1 The primary responsibility for solving disputes/conflicts amongst the |Gaiodaman traditional community shall be vested in the |Gaiodaman Traditional Authority within the framework of its existing channels/structures and in accordance with sections 12 and 13 of the Traditional Authorities Act.
- 15.2 Regulations shall be formulated to set the procedures for solving disputes/conflicts amicably.

## **16. Customary law for maintaining justice**

See Appendix 1 hereto.

## **17. Regulations**

- 17.1 The |Gaiodaman Traditional Authority shall make regulations relating to the following:
  - (a) Customary marriage and funerals.
  - (b) Inheritance of land, livestock or any other property.
  - (c) Traditional festivals of the |Gaiodaman community.
  - (d) Grazing of livestock on communal land.
  - (e) Rules of succession to the |Gaiodaman throne.
  - (f) Traditional anthem and any other matter that may preserve the heritage of |Gaiodaman community.
  - (g) Menstrual rites.

## **18. Short title, commencement and amendment**

This law shall be called the |Gaiodaman Customary Law and came into operation on 13 October 2004 immediately after the ratification and approval by the Congress or Traditional Authority in cooperation with the community and signed by the Chief.



## APPENDIX 1

1. Nobody shall occupy land without the written permission of a Chief in accordance with the Communal Land Reform Act.
2. Nobody shall settle or move into the jurisdiction area of the |Gaiodaman Traditional Authority without the written consent of the Chief in accordance with the Communal Land Reform Act.
3. Nobody shall take the law into his/her own hands and fence off communal land under the |Gaiodaman area of jurisdiction without the written permission of the Chief.
4. Nobody shall be allowed to hold meetings, parties or festivals or conduct any other activities at |Gaiodaman cultural sites declared as such by the Traditional Authority, including burial sites, without the written permission of the Traditional Authority.
5. Nobody shall be allowed to collect firewood or any other natural resource for any purpose other than for household use without the written permission of the Traditional Authority and the approval of the relevant Ministry.
6. Nobody shall transport or sell livestock or meat without permission to do so in writing from a traditional leader from the transporter or seller's area or branch of origin.
7. If someone steals any livestock, s/he shall be fined double the value of such stolen stock and may also be fined by a competent court of law.
8. If a person steals property other than livestock and is found guilty of theft, s/he shall return the person's property in its original condition, and shall also be tried in a state court of law.
9. If a man commits adultery and impregnates another man's wife, he shall pay the Traditional Authority a fine of 5 (five) head of cattle or 30 (thirty) goats, or the equivalent of either in cash.
10. If a male adulterer does not impregnate the woman, he shall pay the Traditional Authority a fine of 3 (three) head of cattle or their equivalent in cash.
11. If a woman is raped, the convicted rapist's family shall pay a fine of 3 (three) head of cattle, 1 (one) of which shall go to the Traditional Authority, and the rapist shall also be tried in a state court of law.
12. If a spouse has sexual intercourse in his/her house with someone else's spouse and is found guilty of adultery, s/he shall pay a fine of 5 (five) head of cattle or 30 (thirty) goats, 1 (one) head of either of which shall go to the Traditional Authority.
13. If a man impregnates a schoolgirl, he shall pay a fine of 3 (three) head of cattle or 18 (eighteen) goats, 1 (one) head of either of which shall go to the Traditional Authority, or he shall pay the equivalent value in cash, in addition to which fine in cash or in kind he shall be tried in a state court of law.

14. If a man impregnates a woman over the age of 18, he shall pay 2 (two) head of cattle or 6 (six) goats, 1 (one) head of either of which shall go to the Traditional Authority, or he shall pay the equivalent in cash.
15. Anybody who swears or fights in public shall be punished.
16. If someone murders another person, s/he shall pay a fine of 5 (five) head of cattle, 1 (one) of which shall go to the Traditional Authority, or s/he shall pay their equivalent in value, and the murderer shall also be tried in a state court of law.

## CERTIFICATE OF CONSENT TO PUBLISH

### UNIVERSITY OF NAMIBIA

### FACULTY OF LAW

### HUMAN RIGHTS AND DOCUMENTATION CENTRE

#### RE: CONSENT TO PUBLICATION

I, the undersigned, Chief of the |Gaiō-Daman Traditional Authority, hereby give consent to the Human Rights and Documentation Centre, to publish the following documents of the |Gaiō-Daman Traditional Authority:

1. The Customary Laws
2. The Community Profile
3. Picture of the Chief
4. Logo of the Traditional Authority

I acknowledge that the Human Rights and Documentation Centre will publish the laws in our indigenous language (Damara/Nama), as well as the English language. I am familiar with the contents of the laws that will be published and further acknowledge that they were prepared by my traditional authority.

Signed on this 4 day of APRIL 2012.

At Kamanjab

Namibia

Chief JOSEPH Max Heraseb

JOSEPH Max Heraseb  
For HRDC: A. Grainiseb

REPUBLIC OF NAMIBIA  
IGAI-O DAMAN TRADITIONAL AUTHORITY  
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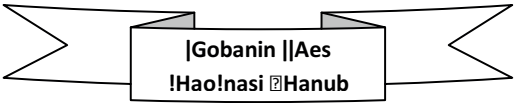


**THE !GOBANIN TRADITIONAL AUTHORITY**  
**!GOBANIN DI !HAO!NÂSI ‡GAE‡GUIS**



The supreme leader of the !Gobanin traditional community  
is *Gaob*<sup>1</sup> Stefanus Gariseb.  
Date of designation: 3 September 1993

# !Gobanin Traditional Authority



1        Traditional title in terms of section 11, Traditional Authorities Act, 2000 (No. 25 of 2000).

## PROFILE<sup>2</sup>

### 1. The area of the !Gobanin

From very early on, the †Nūkhoen Damaras lived partly in !Gowas – today known as the politically demarcated Omaheke Region. The latter is geographically divided into three, namely –

- (a) the !Arib (Sandveld), from the †Aiseb (Eiseb) River to the confluence of the !Gûlob (Okavango) River and the !Khuob (Omuramba Omatako) River east to Khoexabes (Rundu)
- (b) !Gaokaib, the sandveld south of the †Aiseb (Eiseb) River down to the !Garib (Orange) River.

### 2. Background on the !Gobanin

The !Gobanin are settled in the !Gowas area (Omaheke Region). Initially, the clan was composed of three subgroups, namely the Ama !Gunikhoe (“Real Orphans”), the Ama Khowkoe, and the Ama Khoe. The Ama !Gunikhoe were the survivors of harsh intertribal conflicts among the people historically known as the Hai!nâdaman (“Forest Bantu”). The !Gobanin’s ancestors, known as the Hailgoarien (“People from the Forest”) lived close to the Hai!nâdaman.

### 3. The traditional !Gobanin †Nukhoe gaogu (Chiefs) (1295–2013)

| Name              | Possible/actual commencement of period of rule |
|-------------------|------------------------------------------------|
| 1. Doelgoeb       | 1295                                           |
| 2. !Haomâbagub    | 1320                                           |
| 3. Gunigub        | 1354                                           |
| 4. !Gunib         | 1370                                           |
| 5. Ama !Gunikhoeb | 1395                                           |
| 6. !Gûlob         | 1420s                                          |
| 7. Ama Khowob     | 1445                                           |
| 8. !Gamdoeb       | 1470                                           |
| 9. !Gowa!gâub     | 1495                                           |
| 10. Tsulkhab      | 1520                                           |

<sup>2</sup> This profile was provided by the !Gobanin Traditional Authority.

| <b>Name</b>           | <b>Possible/actual commencement of period of rule</b> |
|-----------------------|-------------------------------------------------------|
| 11. Piri#nammi        | 1545                                                  |
| 12. #Aosôab           | 1570                                                  |
| 13. !Hoxobeb          | 1595                                                  |
| 14. !Gaob             | 1620                                                  |
| 15. #Gomhetamab       | 1645                                                  |
| 16. Xomalkhab Kaib    | 1695                                                  |
| 17. !Gom!goreb Kaib   | 1720                                                  |
| 18. #Aistagab kaib    | 1743                                                  |
| 19 !Gôagoseb Kaib     | 1768                                                  |
| 20. #Gaegub Kaib      | 1793                                                  |
| 21. #Nu-am!gâb        | 1818                                                  |
| 22. Sorekhaub         | 1843                                                  |
| 23. !Uisi#nûb         | 1868                                                  |
| 24. !Aoxamûb          | [Date cannot be provided or estimated]                |
| 25. !Khowalkhab       | [Date cannot be provided or estimated]                |
| 26. Xomalkhab #Khammi | [Date cannot be provided or estimated]                |
| 27. !Aureb            | [Date cannot be provided or estimated]                |
| 28. Xomdoeb Garisemâb | [Date cannot be provided or estimated]                |
| 39. Masib             | [Date cannot be provided or estimated]                |
| 30. Moses !garureb    | [Date cannot be provided or estimated]                |
| 31. Willie !Gôakoseb  | [Date cannot be provided or estimated]                |
| 32. Stefanus Gariseb  | 1993                                                  |



**I**GOBANIN DI **H**HANUGU



# Aimis

!Hao!nasi #Hanub (gu) |Gobanin dib

Ne !Hao!nasi #Hanub ge !Hao!nâsi #Hanumas, 2000, #Hanumas !gôas 25 2000 dis ta #gao#kherese –

“#gaekhâihe hâ !âs 3 !naga!âs 1, |gaigu, |gui#amdi tsî laxasigu !Hao!nâsi #Gae#guidi” tsî lanin !nas din, !nasa !gosase !naga!â 3, [c]. “!Hao!nâsi #Gae#guidi ge !Hao!nâsi #Hanuga a dilkha:”

|Gobanin ge Damaran di |gui !haos hîa !nasase Kalaharis [|Gobas ]hîa ra !Aekub di !âb –Ai#oas Namibiab dis !nâ ra hohena.

||In gege doemâ-maxa i!gâi !û-aigu tsi !hao!nâbe xa !aromabahe hâse, |lin di !hub ge Aipekam !Hao|goraxa #Gae#guis xa ge |khâuhe tsî !na !âba Herero-!Hub tsî !Urikhoen xa |honkhoebaheb ase nen tsî naun !naka ge a mîl|guihe.

||In di |gaigu, #hûunumâsib tsî khoesi anusasib !Hao|goraxa #âil|gaub x age !aulauhe tsî |gaib hîan ge |lin !naga hâ khoen #ama uhâ ib tsîna ge a #khawu#khawuhe.

||In !hao!nâsi !naetin, #usib, tsî laxasigu tsîna in ge !norasase a sîsen#am |loai.

!Noras ne !hub dis khao!gâ, ib ge |asa #Hanuba !Hu#hanuba ge a mâi, |lib !oagu I, !hao!nâsi !huba ge a #an!gâhe tsîn nî |Gobanin tsina amlnase.

|Gobanî !Hao!nâsi #Gae#guis ge !na-amaga Hoalgaixaba !hub di ||mâbasens !aroma ra gangan, aogu tsî taradi hîa |lin di ûiga ge |guiba tsî !na !gom !aegu !nâ gere #gae#gui dana.

Kaxuse ûi #Gae#guis Republiki Namibiab di tse.

## !As 1: !Gui!adi

Ne !hao!nasi #hanub !na, hana i ga !kho#gaba |niti |gau#ui tama io:

*Dana |Apemas*

Ge ra #âibasen Dana !Amlares |lis !nâs #gae#guis di |gaib |Gobanin diba #gae#gui, |khauba tsî nî sîsen#uixuse hâ !nâs ti

*Gaob/s*

Ge ra #âibasen mâ |lani-I |hûisa |gaumâisa-I tamas ka io, o #gan!gâsa |hûi|gaub !nâ-u- |Gogabanin di Gao#guisa xu #gae- tamas ka io, |Gobanin di !Hao!nâsi #Gae#guisa xu, tsib ge Chief/Gaob |Gobanin !Hao!nâsi |Hûhâsib dib ti mi-ni #gaihe [Dana #Gae#gui-aob]

*Hao!nâsi |Hûhâsib*

Ge ra †âibasen !Hao!nâsi |Hûhâsib |hâ |na !âpeba  
|Hûhâsi !Hub, |în !oagu |lara-†uihehâb, |na |ân-hân ti

*|HûHâSI !Hub*

Ge ra †âibasen |Hûhâsi !âpeb |nab |Gobanin xa |lanaihe  
hâ khami: †Nössöb-, Oliphants- †Khoa-aib, Skaap-  
Gubagub, Auob-, †khôanlôb, Gai-|gowas, |āwalgowas  
tsî |nî ailgû!huguhîa a |Gobanî !Hao!nâsi |Hûhâsib dib

*!Hao!nâsi !Hub |Gobanin dib*

Ge ra †âibasen tsî !kho†ga hâ hoaraga !Hao!nâsi !âpegu  
|Gobanin xa gu |lan†gahe hâse

*!Hao!nâsi †Gae†ui-aon*

Ge ra †âibasen tsî !kho†ga hâ hoaraga !Hao!nâsi  
†Gae†gui-aon |na a |hûisa, †gaimâisa tamas gai-o  
|gaumâisase |Hûhâsib Gaob |Gobanin dib xase

*!Hao!nâsi †Hanub*

Ge ra †âibasen dana †Hanub |Gobanin dib ti

## **!Âb 2: !Hao!nâsi !Hub**

!Hao!nâsi !Hub |Gobanin dib ge kai |Gowas, |Awa |Gowas, †Nössöb, †khou-aib, Gubagub,  
Ou-ob, †koan-lôb |nâ |lanin |Gobanin din xa I |lan!nâhe hâse hâ.

## **!Âb 3: Dana Hâ!khais**

Dana Hâ!khais ge nî Gorese I. |Aupexa 30 dao!noaga Huris Kaidaos (Otjinenes) dis  
Omahke |Kharib dib |nâlgoe.

## **!Âb 4: ||Khou†goas tsî ||Khaumîs**

4.1 |Khupub ge a !haos di ||Khou†goa

4.2 Mâlhao, !Gôasib, |Gaib ge a !haos di ||Khaumî

## **!Âs 5: |Ûgu**

5.1 |Ûgu ge nî !âm tsî !ûri I.

5.2 !Âm –I ge !Âubasensa ra †âibasen.

5.3 !Urii ge †Khibara †âibasen.

## **!Âs 6: !Hao!nâsi !Khaub**

!Hao!nâsi !Khaub ge nî !Am tsî !Uri |Khupub |khou†goas di |laeku nî mâ+oase, tsî  
||khaumîs' Mâlhao, !Gôasib, |Gaib.' ti hâs |kha.

## !Âs 7: !Hao!nâsi †Nae-ams

†Napas ge !Hao!nâsi †nae-amsa[!Haos – Ams] nî hâ hîa ‘†Nû khoe !haose hare’

## !Âb 8: †Nâugu |Gobanîn !Hao!nâsi †Gae†guis digu

### 8.1 |Gobanîn !Hao!nâsi †Gae†guis

- 8.1.1 †Napa I ge |Gobanîn !Hao!nâsi †Gae†gui-e, |Gobanîn !Haosi †aroma nî hâ.  
 8.1.2 †apolapos, †gaigu, †gui†amdi tsî †laxasigu ge †gara!ahe hâ !Hao!nâsi †Hanumas, 2000 dis (25) 2000 dis !nâ-I hâ kheminihâ.

### 8.2 Dana |Apemas [!Guris]

- 8.2.1 †Napa I ge dana |Apema-e (!Guris) |Gobanîn !Hao!nâsi †Hûhâsib dis †aroma nî hâ.  
 8.2.2 !Am†ares Dana |Apemas dis ge nî ra †anîn |Gobanîn !Hao!nâsi †Hûhâsib tsi Kai-khoen, Tararekhoedi-, -, tsî †Khamsib tsin, tsina [!Guri!gaon ] xu.  
 8.2.3 Dana †Axasib Dana |Apemas dis ge nî i: !Kho!gâ, †gae†gui, †khauba, tsî sîsen†ui †hanugu, harebes, tsî †usigu tsîna †hoalares |Gobanîn †Gao†gâus †kha hâs dis †kha!gâ tsî †hûhâsib, sao!†gonao †Gaob dib †kha m†lguigu †garagu Sao!†gons digu †oagu, sao!†gons di †garagu †aroma tsî sîsen†are nîse tsî nî †nâulnamhes †hanugu †Republiki †Namibiab diga tsîb tsî sâsasib †aroma sao re †Garaga.

### 8.3 Gaob/s

- 8.3.1 †Gaob/s ge nî Dana !Hao!nâsi †Gae†gui I |Gobanîn !Hao!nâsi †Hûhâsib diba/sa.  
 8.3.2 †Ib/s ge nî ôa†ui /†gaumâi, †gau†nûi!khahe |Gobanîn di †Gao†gâusa xu.  
 8.3.3 †Ib/s ge nî [35] †nonadisi- korola kurixa tsî †nas xa kai.  
 8.3.4 Chief/Gaob ge nî Mâba†gû-I ne !Hao!nâsi †Hanub †ama., tsî nî sîsen†am †îb/s di †gaiga tsî sîsen†u †îb/s †gui-aidi tsî †laxasiga ne !Hao!nâsi †Hanub xoal†guigu †oagu.  
 8.3.5 Khoe-I †îb/s di di mâb †kha a †gui-I †gui-I ge †îb/s di †nau†gahesa a dilka (Sao re †Garagu †Nau†gas †Axasib Chief/Gaob †amagu di ga).  
 8.3.6 Gowab hîa nî sîsen†uhe †nau†ga †laxasib Chief/Gaob †laxasib dib di soan aib ge nî dihe ‘†Nûkhoe |Gowanikowab’.  
 8.3.7 Chief/Gaob ge nî Ai†nû-ao I hoaraga !Hao!nâsi †nûdi †ama tsî †nati I †gaiba †nailga †kha †gapi |Apema-ao-I ai.

### 8.4 !Guri!gaon di |Apemas

- 8.4.1 †Napas ge nî !Guri!gaon di |Apemasa nî hâ |Gobanîn !Hao!nâsi †Gae†guis †aroma.  
 8.4.2 †Anîn !Guri!gaon |Apemas din ge [60] †nanidisi kurixasa xu †gawikab †ga nî hâ.  
 8.4.3 !Guri!gaon di |Apemas ge nî †gae†guihe !Hao!nâsi †Gae†guis †hanub |Gobanîn dib xa hoaraga †laxasigu †nâ.

8.4.4 Dana †laxasigu ge nî i:

- (a) †Apema Chief/Gaob/sa †haosi †naetigu, harebes tsî †haosi†usib †Gobanîn dib †ama
- (b) †Kholgara, †khalkha tsî †kholgara †gau†ui ra †usib, †haoxunin tsî amlgaebadi †Gobanî †Hûhâsib dina†kham †anin ai, tsi
- (c) †Kho†ui †lîn di †gubisa xu †anina tsî sî †lîna †nûlkhaeba-aose †Gapi †Apemas †ga †hâb ga hâse.

## 8.5 †Khamsib †Hao!nâsi †gubis

8.5.1 †Napas ge †Khamsib †Hao!nâsi †Gubisa nî hâlGobanîn †Hao!nâsi †Gae†guis †aroma.

8.5.2 †Anin †Khamsib †Hao!nâsi †Gubis din ge nî [35] †nonadisi korola kurixa tsî †nas xa †kham I †kha.

8.5.3 †Khamsib †Hao!nâsi †Gubis genî †gae†guihe †Hao!nâsi†Hanub xa hoaraga †laxsin †nâ.

8.5.4 Dana †laxasigu †Khamsib †Hao!nâsi †Gubis digu ge nî i:

- (a) †Apema Chief/Gaoba †lîn di †hasigu †amas
- (b) †Khalkhas, †apelguis, †kholgaras tsî †khomâis †hao!nâsi †laxasigu †Gobanîn †Hao!nâsi †Hûhâsibas ai†gause †gau†ui ra †usib, †haoxunin, amlgaebades
- (c) †Sîsenlareb nau hâ †Khamsib †Hao!nâsi †Gubidi tsî nau †Hao!nâsi †Gae†guidi †khas dib tsî †lîna xu †khalkhasens
- (d) †Ae tsî †haosmariho†ga ra †laxasigu †Hûhâsib digu †nâs, tsi
- (e) †Kho†uis †lîn di †anina xu tsî sî †lîna †Gapi †Apemas †ga †hâsib ga a hâ os.

## 8.6 †Gobanin Taradi †Hao!nâsi †Gubis

8.6.1 †Napa I ge Taradi di †Hao!nâsi †Gubisa nî hâ †Gobanî †Hao!nâsi †Hûhâsib †aroma.

8.6.2 †Anîn Taradi di †Hao!nâsi †Gubis didi ge nî [35] †nonadisi korola kurixa tsî †nas xa kai.

8.6.3 Taradi †Hao!nâsi †Gubis ge nî daolgauhe †Hao!nâsi †Hanub†Gobanîn dib xa hoa horaga †laxasin âs †nâ.

8.6.4 Dana †laxasigu ge nî i:

- (a) †Apemas Chief/Goab/s †lîdi di †hasigu †amas
- (b) †Khalkhas, †gau!nâs, daolgau!khomâi tsî sâu †hao!nâsilgaragu, †naetigu tsî †gomn tsîna hoan †hûhâsib †nâ hân †aromatsî †laresa nau tararekhoedi †gubidi nau †Hao!nâsi †Gae†guidi din †kha
- (c) †Homisen tsî †âgai mari-hō-†ga prokekdi, †Hao!nâsi †Hûhâsib didi †na tsî †âmariho†ga projekdi †Hao!nâsi †Hûhâsib dis †nâs
- (d) †Hûlare tsîlkhalkhasen nau Tarekhoedi †Hao!nâi †Gubidi nau †Hao!nâ †Gae†guid I te xus si, tsi
- (e) †Kho†uis †lîn di †anina xu tsî sî †lîna †Gapi †Apemas †ga †hâsib ga a hâ os.

## !Âs 9: #Nûdi

### 9.1 !Haosi #nûs

- 9.1.1 !Napas ge !Haosi #nûsa nî hâ |Goabanî !Hao!nâsi |Hûhâsib !aroma.
- 9.1.2 |Gobanin !Haosi #Nûs ge nî uhâhe kurikoro |kha datoms tsî !khaib tawa !Haosi |Audib ta dihe pa, mû Xoalguiga !nas !aromaga.
- 9.1.3 |Gobanin !Hao!nâsi #Nûs ge nî |khowa-amsa I !am!lareb âs !nâ hoa !lanin |Gobanin |Hûhâsib din Namibiab !nân !aroma.
- 9.1.4 |Gobanin !Hao!nâsi #Nûs ge |gaiba nî uhâ laro tamasa ka io, o #gai-oas ne!Hao!nâsi #Nûs diba |gam!lî !nasasib |Anin hîa hân dib |kha.
- 9.1.5 |Gobanin !Hao!nâsi #Nûs ge nî !am!aresa I Chief/Gaob/s tsî |orodomma [10] Disi !lanin |Hûhâsib dib xa ilkhase !kharagagu !am!aregu |Gobanin !Hao!nâsi |hûhâsib dina xu #nûlkhebahe hâse.

### 9.2 |Gobanin !Hao!nâsi #HGae#guis #Nûdi

- 9.2.1 !Napa I ge |gui !nâsa mâ !nona |khan hoan khao!gâ #nûsa nî hâ guri korope.
- 9.2.2 Gaob/s tsî |lîb/s di |Apemas !nâna |guis ge nî |hao!nâ !na #nûsa.
- 9.2.3 !Na #nûs ge nî !hoa!gâ !gomsin, !hao!nâsi tanisen!gaub, tsî Hoaraga |hon |Gobanin !Hao!nâsi |Hûhâsiba ra tsâlkhana !hao!nâsi se.
- 9.2.4 !Kho!gâ!gôab (quorums) ge nî hû !lanî I !lanin |Gobanî !Hao!nâsi #Gae#guis din tsî Chief/Gaob/s hân ge |hûis di domma nî uhâ.
- 9.2.5 !Hao!nâsi #Gae#guis di !lani-I hîa ga !onkhao!nona sao!gâgu ra #nûde #û#ûxa |hawio kaisens ose I tsî |ûbas |Gobanin !Hao!nâsi #Gae#guis ose I ge, |lîb/sa |lî-aitsama ra !hae kaisen.!Hao!nâsi #Gae#guisa xu.

### 9.3 |Hûhâsi #Nûdi

- 9.3.1 !Napas ge Hoa!nâ-aixa |Hûhâsi #Nûsa |Gobanî !Haos |Hûsi !roma nî hâ.
- 9.3.2 Ne #nûs ge hoa!nâ-aixase nî |khowa-amsa !lanin |Hûhâsib din !aroma.
- 9.3.3 Chief/Gaob/s ge tsî |lîb/s di |Apema-aon ge nî #gae#gui #nûsa |mâlâe-I hoa-e I a #hâpasa khami.
- 9.3.4 Dana #âibasens ne #nûs dis ge nî I |gui !nas ai |Hûhâsiba lowe#guesa, tamasa ka io hoa!nâ-aixa #ansa masa.
- 9.3.5 !Nas xolkha I ge ma-amasa tama hâ uhâs |nî hâ #nû-I disa !khaub |Gonanî !Hao!nâsi #Gae#guis dis !nâka aisi hâ ko!nâ!kharus tsî ma-ams ose.Nes ge |gaisa !û#ams ase nî !gawalîhe.

## !Ab 10: #Hanub tsî !amkusib

- 10.1 |Gui khoe-I tsîn ge !huba u tide xoasa ma-ams Chief/Gaob/s dis ose.
- 10.2 |Gui khoe-I tsîn ge !lan tamasa ka io, o doe tide #gae#guis !âpeb |Gobanin !Hao!nâsi #Gae#guis dis |ga xoasa ma-ams Chief/Gaob/s dis ose.

- 10.3 |Gui khoe-I tsîn ge !huba xu hâ-î-a !huba-oa doë-ma tide xoasa ma-ams Chief/Gaob/s dis ose.
- 10.4 |Gui khoei- tsîn ge !gâulnâtide !Hûhâsi !Huba xoasa ma-ams Chief/Gaob/s dis ose.
- 10.5 |Gui khoe-I tsîn ge ma-amsa tama hâ †nûdi, lâudigu tamas ka io, o ma-amsa tama !axasi-e |Gobanîn !Hao!nâsi !khaigu, ailgause, !howadi †gas ai, ma-ams Chief/Gaob/s dis ose disa |Gowa nin !õns !nâ.
- 10.6 |Gui khoe-I tsîn ge ma-amhe tide !aena !aere tamas ka io, o hâ a !nî ûixuxu-e mâ-I ga a !aroma |gui I xawe, xawe I ga oms tawa sîsenus !aroma tamas ka io, o ubesa xoasa ma-ams Chief/Gaob/s dis ose.
- 10.7 |Gui khoe-I tsîn ge ma-amsa tama hâ doe-us!nari-us ûitsaba xun tamas ka io, o !ganni disa ma-am†khanis !apama-ao-I dis !na !âpeb !gan-I ra !naohes disa xu.
- 10.8 |Gui khoe-I tsîn ge ma-amsa tama hâ !nî hâ khoe-I di ûtsaba xu-e usa, ma-ams !honkhoe-I dis ose, tamas ka io, o !nari tide. (Mû re !Khâikhom !garage.)
- 10.9 |Gui khoe-I tsîn ge ma-amsa tama hâ !ixudibasens nau khoei di xub disa †ans !honkhoe-I dis ose. (Mû re !khâikhom !garafa.)
- 10.10 |Aib ge ma-amsa tama hâ, tsî nî !kharabahe. (Mû re !khâikhom !garage.)
- 10.11 |Gui khoe-I tsîn ge nau khoe-I !kha sorosise †harugu tide ma-ams !na khoe-I dis ose. (Mû !khâikhom !garaga.)
- 10.12 |Gui koe-I tsîn ge ma-amhe tide !horo hâ, gagasise !garu hâ, tamas ka io, kurin !naka hâ khoe-i xa. Ma-amsen î-go se ū-!oasa. (Mû !khâikhom !garage.)
- 10.13 !Napa I ga !gammeb !auka ao-e tarekho-e a !gam!kha kaio, ob ge !îsa nî !gâikhasi. (Mû !Khâikhom !garage.)
- 10.14 |Gui khoe-I tsîn ge ma-amsa tama hâ !kham tamas ka io, o !goegusa, !kharagu ge !nati-I kho-I !oagu nî †nûi†gahe. (Mû !khâikhom !garage.)
- 10.15 |Gui khoe-I tsîn ge ma-ams tama hâ nau khoe-I di ûib tamas ka io, o !î-I di ûiba !gams, !gam†uis tamas ka io, o !khom!gams !kha ubes !kha. (Mû !khâikhom !garaga.)
- 10.16 †Ho†khoms !gôa-!nâs ge ma-amsa tama hâ tsî !na-amaga nî !kharabahe. (Mû !khâikhom !garage.)

## !As 11: !Khaikhom !Garagu

- 11.1 |Gobanîn !Hao!nâsi †Gae†guis ge !khâikhom !garage sao ran !aroma nî †nûi†ga:
- (a) !Garagu Sao!gons |Gobanî Chief |Gaob/s dis digu
  - (b) Tari-e ra !gapalîhe kailoahâ-I, taras tamas ka io, o aob ase
  - (c) !Hao!nâsi !Audigu tsî !Hao!nâsi †Nûs
  - (d) !Hao!nâsi !Gammegu
  - (e) !Gammelgoras
  - (f) !Umis !hub, ûitsabaxun, tamas ka io, o !nî †hûmuma-xun dis
  - (g) !Ûs ûitsabaxun dis !hûhâse ra †gari-aihe !hub ais dis, !gamamdi
  - (h) !Nari!aus
  - (i) !Naris ûitsabaxun tsî †hûmuma-xun dis
  - (j) !Gams, !gam†uis tsî †ho†khoms
  - (k) Nulgoeb tsî !kams
  - (l) !Gam!kha kai tarekhoesa !gammeb !aukas



- (m) †Ans tamas ka io, o ma-ams mahe ra †khamkuri-I tamas ka io, o †nî khoe-I xas
- (n) †Gai!khos
- (o) †Aib, tsi
- (p) †Ixudibasens khoen xun dis ma-ams †honkhoe-I dis oses.

## **!Âs 12: †Gai†ams, Ai!gus tsi †A-ams !Hao!nas †Hanub dis dis**

- 12.1 Ne !Hao!nâsi †Hanub |Gobanin dib ge |guitimî tsî nî sîsenxa Chief/Gaob/s xa ib xoa!gaohe tos khao!gâ.
- 12.2 Ne !Hao!nâsi †Hanub tamas ka io, o !khare-i tamas ka io, o |guiskhama ga I †napaxu-I ge †â-am tamas ka io, o a †gai-oahe |gamlî [2/3]†guisib †lanin hîa !Hao!nâsi †Nûs tawa hân dib †kha.
- 12.3 Ao!guigu †â-ams †kha xudixagu tamas ka io, o †nîn !Hao!nâsi †Hanub †kha dixuxan ge nî ao!guihe [30] †nas aisai.

## **‡Garagu**

### **‡Garab 1: !Hao!nâsi †Gae†guis di sîsen!oaba!ân !nâ nî ‡gaumâihe khoen ai hâ ‡gaolkhâdi**

- ‡G1.1 !Hao!nâsi †hanugu ge kurixasis di †gaolkhâde ra †gui !Hao!nâsi †Gae†guis di sîsen!oaba!ân di †gui†amdi dide. Ai!gause, Taradi di !Hao!nâsi !nans ge †lîs di †lanis ase tare khoes hîa !nonadisi koro!a kurin xa !nâsa kurina ūhâs †guisa nî mǎ-am.
- ‡G1.2 |Gopanin di !hao!nâsiba !oa i ge khoe-e sao ra †gaolkhâdi ai a ‡gaumâihe †khâ:
  - (a) Mǎ khoe-i hoa-i ge nau khoe-i †kha a |guitikō/tsî ‡gaumâihesa anu nēsi i ga a †gamme tamas ka io †gamme tama a †xawe.
  - (b) Mǎ khoe-i hoa-i ge a ‡gaumâihesa anu nēsi i ga †hûlaresib tamas ka io sǎulkhāsib !nâ mǎs ka !haro xawe †nǎ †hûhāsib !nâ a tanio.
  - (c) Khoe-i ge !oaba!nans !nâ nî !khō!oahe †lî-i di †ans tamas ka io †khāsib !oagu.
- ‡G1.3 Xawe i ge nî †nǎ !oaba!nans di ai†hanu i †nǎti khoe-e †hûi tamas ka io †nǎti khoe-e mǎ-amsa †lîs ra †gau ra ti †âi-e †i i †nǎti sîsenna dī, xawes ge †nǎti !oaba!nasa †garaga nî †nǎulnam †gui khoe-e nau khoe-i xa ais-ai tamase.

### **‡Garab 2: |Gopanin !Hao!nâsi †Nûs tsî !hao!nâsi †lǎudîb**

- ‡G2.1 !Hao!nâsi †Nûs tsî !hao!nâsi †lǎudîb di †Nûs hâra ge kurikorobe !nae!khaira hîa ra |Gopanin di dana †nûs di †hao-ai!khais Goreses |Hûlarebe †lan!hûb ai hâs dis ai ra dīhera. Tsî nē †nûra di †laeb ge †nǎti ūhe †b |Gopanin di kurikorobe sîsen saogub †kha †gui †laeb ai dīhe tsî †nǎti marimǎ†uisa †loroloro.
- ‡G2.2 Gaosi |Apemǎ!nans ge haka!lî!nǎkorobe †nûdi ai !Hao!nâsi †Nûs tsî !hao!nâsi †lǎudîb do tsēde nî mǐlgui.

- IG2.3 Mîlguis mâ †nûs nî aidîhe !khais dis ge lnā laeb ai mâ mâsigu xa nî !aromabahe.
- IG2.4 Gaosi !Apemā!nans ge lgui tsēs †nûdi xa !gau hâ hîa nî sî, (Ailg. Hakalîtsēs tamas ka io Fraitaxtsēs ai) îs Gaosi Sîsenxû lgâusa kô!ganu tsî saoguba kô!ganu!nâ iseb saoguba †hanuse a †gaekhâisa !khaisa.
- IG2.5 Dana !Hao!nâsi !Apemā-ao-i tamas ko io !Hao!nâsi !Apemā-ao-i ge sari-aona !khô!oa tsî ai†homide nî dî lkhâ i ipa.

### IGarab 3: Gao-i di ūlnâs tamas ka io sao!gâgus

- IG3.1 !Gopanin !Hao!nâsi †Gae†guis ge !Gopanin di Gao-i di ūlnâsa nî !khô-am hana i ga lnâti gao-e !Hao!nâsi †Gae†guis di lgaragu, †hanuse tanisens tsî †hanu-ai dîxûna kara !û†am soab ai.
- IG3.2 Gao-i ge !Gopanin di Gaolgâus di gaosi !oa!û hâ laokhoen di suriba xu nî lgaumai-he, lô-aisase Gao-i di lgû !oa!û hâ kaikhoe kai hâ lgôana xu, tsî lkhâti lî-i di !gâsan tsî lîn di lgôana xu.
- IG3.3 Hana i kom kaikhoe!oa tama lgôa-e nî lgaumai-hes kara o i ge mû!gâ-ao-e nî †gaolkhâ he.
- IG3.4 Gao-i ge lî-i di sîsenxûlgâusa nî †oaxû hana i ga lnâpa †au hâ !aromade nî hâs karao lî-e lnâti sîsenxûlgâusa xu ūbēs dide sao rana !khô†gâ hâde:
- (a) lōb
  - (b) hana i ga lnâu!âb !nâ !gâi†au tama kara i ti laedî-ao-i xa nî lgora!gâhes karao tsî lnâti laedî-ao-i di †gan†gâs lkha tsî
  - (c) hana i ga †khawadîb !nâ nî lhaos karao tsî lgora!gâ!khaib !nâ lhawixase nî hōhes karao.
- IG3.5 Sao!gâgus ge nî dîhe !Kharakaikhoen di !Apemā!nans lkha hâ lapemâgus lkha tsî !Gopanin !Hao!nâsi †Gae†guis !nâ hâ !nâu lgaragu lkha.
- IG3.6 Ai-†nû-ao-î, !hao!nâsi †gae†guis di i ge !Hao!nâsi †Nûsa lnaetisa tama †nûsa !oa a †gaikhâi lkhâ îs lîsa Gaolgâus lkha hâ lapemâgus khao!gâ tsî 8(2)lî lara!âs !Hao!nâsi †Gae†guis di †Hanumâs dis !oagu Gao-e a mîmâ lkhâ î i lî-i dî sîsenga sîsenxûlgâus !nâ lamlam.
- IG3.7 !Hao!nâsi †Gae†guis ge lnî hâ lani-i Gaolgâus di-e a †gan lkhâ î i Gaose sîsen tsî Ministera lnâ †ama nî †an†an !Hao!nâsi †Gae†guis di †Hanumâs 8(1) ra †gaolkhâ khami.

### IGarab 4: !Gammeb

- IG4.1 !Gopanin !hao!nâsi lhûhâsib ge !gammeba lhûlaebese hâs di !gao!gaob asera !gapalî hîa !ereamtanixa lhûhâsiba ra kuru†uiba.
- IG4.2 !Gopanin di !hao!nâsib ge ra lgari î n aoretatarese ra !gamme khoen lguina !gamme gu.
- IG4.3 !Gopanin ge ra lgari îb !hao!nâsi !gammelgauba nau lgaugu †amai !gôahe, tsîra mâ-am, aoba, lgam tara ra!gamesa.
- IG4.4 Khoera hîa ga !nonas (3) xa !nâsa kurina lguipa kara lîgu hâra ge sarihe tsî nî lgamûhe î ra !gamme, lgôana ū-ha tamas gara î-o ū-hâ tama î xawe.

- IG4.5 |Aokhoen a lūse ra !gammehe !gammegu ge |Gopanin di !Hao!nāsi |hûhāsib xa †an!gâhe tide hanab ga |nāu!āhesa !aroma-i |kha dīhe tama kara io tsī |nāti !khais ge !Hao!nāsi †Gae†guis xa nī †hanu†hanuhe.
- IG4.6 Tare khoes ge |īs di fanni ai ‘-s’ a nī sīsenū !gammes kara soab ai, ailgaise, Gariseb ge Garises ti nī hâ, !aromas ge |nāti i ga dīhe tama kara ī os ge |nāsa |Gopanin di |hûhāsib di †hanu-ai xūn di !hao!nāsi |āxareb ase ī tarare khoesa ‘-b’ a |īs di fanni ai sīsenūsa |nā ‘b’b’ huka aoresiba ra |gaulgau !khais !aroma.

## !Garab 5: !Gammelgoras

- IG5.1 Khoeb tsī khoes tsīra ga |guipa ai!â hâ tama kara i |lira di |gōan |kha tamas ka io |lira di |gōan ose o ra ge |gora ra hāse nī !gawalihe.

## !Garab 6: |Omis

- IG6.1 Mû!gâ ra Danakhoe-i ge hoallae ûib di †hanu-aisib xa nī †gae†guihe tsī i ge |omisa |goras |nā nī †an tare-i a †hanu-ai tsī |guitilō !khaisa.
- IG6.2 |Nā ra mīhe Danakhoe-i ge |omis nī |gorahe |gauba nī †gaekhâi tsī Gao-e nī mā î i !khō!oasa mā †Hanu-atimi.
- IG6.3 |Gui |omi-i tsīn ge Gao-i xa !khō!oasa tamase |gorahe tide.
- IG6.4 |Gopanin !hao!nāsi |hûhāsib di |omis di sīsen|gaugu ge khoe-i ga “interstate” kara |ō laeb ai sao rase nī dīhe:
- (a) !Gamme go hâ i taras tamas ka io aob di !nās xa i ge |ō!gauhe go !gamme-ao-i tsī |gōan tsīna |ō!gauhe go |omixūn di |omi-aon ase nī ī tsī !nū laokhoen tsī |līn xa ra mû!ghe |gōan ona.
  - (b) |Gōan hana |līn di |gû-i tamas ka io |naosa-i di kō!gâsa nī |nā!gâ tsī !gûxū hâ is kara o i ge |nāti |gû-i tamas ka io |naosa-e goro !khō†homi khoe-i tsīna |nā |omis !nā nī |hao.
  - (c) |Gōan hīa ge !gammeb !auga a hōhen tsī kō!gâhe goro |gōan tsīn ge |nāti ī |omis !nā nī †âi!nāl!guihe.

## !Garab 7: !Hûb

- IG7.1 |Gopanin !hao!nāsi |hûhāsib ge ai†hanuba ūhâ !hūsa |hûlarebese ūhâ |haogu, †gae†gui tsī sīsenūsa. |Nās ge |nāti |luiba sīsen†am, |khara |uigu tsīna ôa!nā tamas ka io omkhâi, hain, |gurun tsī !nāu !khain, |howadi tsī gagasi †nûi†gādi tsīna !khō†gâ hâ.
- IG7.2 Hoa |hûlarebe !hūs |Gopanin !Hao!nāsi †Gae†guis |gaiba ū-ai hās ge !gao!gaose †garib !aroma nī sīsenūhe hana i ga |kharati |gui-aisa tama kara io.
- IG7.3 Hoa |gamamdi tsī !ûre-ai !hûb |nāti |hûlarebe !hûb ai hās ge a |Gopanin di !Hao!nāsi |hûhāsib di.
- IG7.4 !Hao!nāsi †Gae†guis ge nī |lapollapo îin |hûhāsib di |lanina |nati |luiba !ûi!gâ tsī îin tã |gam-i tsī !hûb di !norasa tsī †uru sīsenūsa †hani, |gailgai tamas ka io †hani.

- IG7.5 Mā khoe-i hoa-i ge sîsenū i ra †gam-i !ereamsa nî tani †Gamam Sîsen!oaba!nans ra †apolapo khami.
- IG7.6 †Gammā†uis di xūna khôa tsî †gam-i !aroma ra māhe marisa mā †gao tama is ge †khawadîb asenî †gapalihe.
- IG7.7 †Nāu!āhe †oasa †gam-i tamas ka io !ûre-aiba sa †anlare-ao-e †gâis ge nî †khache.
- IG7.8 Hana i ga !gâise †gâulkhache tama kara †tsî mā-amsase †gui khoe-i di tama kara †ob ge hoa !hūba !ûre-aib !aroma †guipa nî sîsenūhe hoa †hûhâsib di †anin xa. !ûre-aiba †khôadîs ge †khawadîba.
- IG7.9 Mā khoe-i hoa-i hîa †gamma sîsenūxūna ra †khôadî-i ge †nāti †khôadîba nî !gâi!gâi †î-i di †hunuma marimā†uis †kha †nā mîmāhe go †aeb di †soab !nā.
- IG7.10 Mā khoe-i hoa-i hîa †gam-e sîsenūs !aroma i marisa matare tama ti †hawixase nî hohe-i ge hana i !nona †khâga matare tamase i nî †s kara o †gui (1) goma-e nî †kharache tamas ka io !nani (6) †uilnū †goana.
- IG7.11 Khoe-i hîa !garo†huwiba ra !aromaba-i ge !nona gomade nî †kharache tamas ka io †disilkhaisala (18) †uilnū †goana.

## †Garab 8: †Hanumādi tsî !nomsase ûib di !û†amdi

### IG8.1 †Ālnâs

- (a) Khoes hîa ga †îs di †gam/†khâ †khomsa a †ālnâs tamas ka io mâ-i ka khoe xawe ga †nāti †khoesa †ālnâs †kha kara †apemā tamas ka io hui!nâ-i tamas ka io †nāti †aro-e aoxūs !nâ-i ge †khawadîb †kha †hapixase a hōhe †khâ.
- (b) †Gam †khâ †khomsa a †lnas !nailnas tsis ge a †hawixa.
- (c) †Kharab
- (i) !Hao!nâsi †hanugu †Gopanin digu !oagu i ge †hawixa khoe-e †khāti †nāti †hûhâsib di sîsenga nî dî †gora!gâ-ao-i ra mîmā khami, †khari †gōan di skolgu, kindergartens tamas ka io †gōaron ra tsēa †gūna xu ūhe tsî !ûihe !khaidi ai !nani (6) †khâgu di †gaiba †khara kaikhoes di mû!gâs !nâga.
- (ii) †Khawadîb di †hanu-aisib di †gora!gâs ge hoalae †îs di †gaub ai nî ai!gû.

### IG8.2 †Homi†gā-ams

- (a) †Gui khoe-i tsîn ge mā-amhe tama hâ nau khoe-e †homi†gā-amsa †î-i di †ûsib tamas ka io †gōasiba dîgagas !aroma.
- (b) Mā †hûhâsib di †lani-i hoa-i ge !gōasib !aroma ai†hanuba ūhâ tsî nau khoen †kha sîsenlare rase †anlaresa.
- (c) †Kharab
- (i) †Gam †uilnū †goan tamas ka io N\$800 (†khaisa kaidisi Namibia Dolagu).
- (ii) Gao-i ge †nā !ās di †khâ†khâ-ao-e a †gaum i †khâ †i †hawixase hōhe hâ khoe-e †gau!nâ !ûi!gâ tsî †khâb †khao!gâ †nāti †!ui!gâs †khao!gâ Gao-i tawa !nuriba mā†gā.

**!G8.3 !Gurun !oagu hâ orasib**

- (a) !Guruna sorosise tsûtsûs tamas ka io orase !gams ge a !khâisa.
- (b) !Gurun ge hoalaen lîna !oa#ui hâ !gôasib tsî kô!gâs !kha nî sîsenûhe.
- (c) !Kharab
  - (i) khoe-i kom lî-i di !guruna nî tsûdîs kara o i ge lî-e N\$300 (!nonakaidisi Namibia Dolaga) nî !kharabe.
  - (ii) Khoe-i kom nau khoe-i di !guru-e nî tsûdîs kara o i ge N\$500 (korokaidisi Namibia Dolaga) nî !kharabe; tamas ka io i ge !hûhâsib di sîsenga !Gopanin di !amaxû !Khaib nî di !gam !khâkha di !gaiba, Gao-i xa !gaumâihe hâ !khara kaikhoe-i di mû!gâs !nâga; tsî i ge !aeb di !gaiba mati i !guruna nî sîsenû !khais di !gau!nâsa nî mâhe.
  - (iii) Gao-i ge !khâkorobe !nuriba nî !khô!oa mati i !nâ !hawixa khoe-e ra !gau!nâhe !khais diba.

**!G8.4 !Gammeb !nâ !ais (!gamme hâ!â !ais)**

- (a) Nê !hōgu ge !Gopanin di !nâu !garagu !oagu nî sîsen#amhe.
- (b) !Kharab (sao re !Gopanin di !nâu !garagu).

**!G8.5 Tsûtsûs, !ao!aos tsî !gauo!nâ #khawadîb**

- (a) Tsûtsûs, !gauo!nâ #khawadîb tsî !ao!aos tsî !gâu-aribe tsî !nî ka hâ !gaugu #khawadîb digu hoagu ge nau khoe-i go a sorosise tsî gagasise tsûtsûhe ti nî !galîhe.
- (b) Hana i kom khoe-e !nâti #khawadîb !nâ soro!â-i tamas ka io !nî soro!â-e nî #oa!nâs karad tsî !nati tsûdîb di !gaib !oagu, os ge madawa-amsa koro gomade xu !uilnû !goa-i tamas ka io hoa !gamn tsî noxopa hoa !naris tsî !ae!khōgus di marimā#uidi di #khôab hoaba nî mâba.
- (c) Ūihâba !horas kara hâ, os madawa-amsa !khô!khuni-ûhe ra sîsenûsoro!ân di marimā#uisa nî !khô#gâ tsî !nâs khao!gâ khoe-i !nâ-i mari-e nî hōxû sîsengu di kurumâis tsîna !nâti go tsûdîhe khoe-i di kô!gâs !aroma ailgause #khari !lamaxu !khairoa !gam-i tsîna a māsase.
- (d) Tsî !gôasiba ra #khôa tsûdîb kara o i ge !gora!gâ ra khoe-e lî-i di !hunuma !gora!gâsa nî sîsenû tsî #khawadî go khoe-i nî !kharabe !nōba ra !gau!gause !gui (1) gomas tamas ka io !nani (6) !uilnû !goan tamas ka io hoan !gamna nî !khara.

**!G8.6 !Guru!nari!aus**

- (a) !Garoxûn ge !garo ûib di !uiba tsî a hoadi di tsî !khô!garahe !khâ !gaub ai nî sîsenûhe.
- (b) !Garob di !guru-e mǎ-ams di permits ose !gams ge !û#ams ase nî !galîhe.
- (c) !Kharab
  - (i) !Hawixa khoe-i ge dî i go #khôaba nî mǎdawa-am !gamhe go !guru-i di kaisib tsî mari!nōb !oagu !b !ō go !guru-i di soaba !khô!khunihe tamas ka io hoa !gamna, tsî i ge !hûhâsib di sîsenna

nî dī dī-unusens di saogub lkha !khōlare hâse !Hao!nâsi †Gae†guis di !Guru !ûi-aon lkha, !gui !khâb di !aeba xu tsoatsoa tsî.

### !G8.7 !Naris

- (a) !Naris ge a !khâisa.
- (b) !Naris ge nî mādawa-amhe tsîs ge sao ra !gaub ai i ge !narihe go xū-e nî mādawahe:
  - (i) !Gui !narihe go gomas ai di ge !nona gomade ra !kharahē tsî !līde xu !gui gomasa !Hao!nâsi †Gae†guis !oa ra māhe. !Gui goma-i ge !nani (6) !ui!nū !gōan lkha ra !nō!nōhe.
  - (ii) !Gui donkib tamas ka io hāb di !naris ai i ge !gora!gā ra khoe-e !lī-i di !gora!gā!khāsib xa nî †gae†guihe tare-i nî !kharal!gui-aihesa !nā barde-i go †au†ausa i !nōb ai a !gao!gaosase, ailgause, hāb ge go !gapi hā !khā i tsî arib ge go !ûi-ari !khā i.
  - (iii) !Gui (1) gomas ka !narihe ob ge !kharaba a !nona (3) goma tamas ka io 18 (disilkhaisala) !ui!nū !goa tsî nî mādawahe.
  - (iv) 1 (!gui) gūs tamas ka io piris nî !narihes kara o dig e 3 (!nonade) nî mādawa-amhe tamas ka io !nātikō !nōba ūhā marisa !nā !gan-i ga !amaxūhe hā harebes ai a !gau!gausase.
  - (v) Barden ose !nî nî hā xūn nî !narihes kara o i ge !lī-i di !nōb a inî mādawa-amhe.
  - (vi) !Narihe go xū-i nî hō-oahes kara o is ge mādawa-amsa !nā xū-i di harebes ti !gui tsî !khareba nî ūhā.

### !Garab 9: Khoe!gams tsî euthanasias (!Khom!gams)

- !G9.1 !Gams tsî !khom!gams tsîn ge nau khoe-ī di ūiba ūsa !khō†gā hā tsîs ge !nāsa kaise !khō!khōsa !û†ams ase ra !gapalīhe.
- !G9.2 !Nāti soagu ais ge †khawadīb di !gora!gāsa !līs di !gora!gāsa nî dī, xawe gu ge sao ra !hao!nâsi mādawa-am!gaugu tsîna nî dīhe:
  - (a) Khoe-i kom !lī-i di !gōa-e nî !gams kara o i ge !guri !nā !khōs di marimā†uide nî māba.
  - (b) Khoe-i kom !lī-i di !lāsa-e nî !gams kara o i ge !guri !nā !khōs di marimā†uide nî māba.
  - (c) Nē !garakha !G10.2(a) tamas ka io !G10.2(b) tsīkha soab ai i ge Gao-e hoa !gam !aokhoen di khoena nî !hao!hao tsī hoan xa hōbēhe !khā ore-amsa nî sisen†ui, hā !khā a †noagus !khōs di marimā†uis disa tamas ka io khoen !aegu !gōa-i di !lōb lkha !gaelaresa ūhāse a hā !khā !G10.2(a) tamas ka io khoen !ōxūhe gon tsî !gamao-i tsîn !aegu a hā !khā, !G10.2(b).
- !G9.3 !Khom!gams ge kaise a !gom !gau!gausa, xawe i ga !gora!gā ra khoe-e †au hākō !gau!gaude hōs kara khoe-i ge nau khoe-e go hui!nā !i i !lō, o i ge !gora!gā ra khoe-e !lī-i di !gora!gāsa nî sisenū tsî di ge !gapiga goro !gāra!āhe sisen!gauga nî sisenxa.

## !Garab 10: Khoesa !gammeb !auga |gam|khā kais

- !G10.1 Khoeb hîa khoesa !gammeb !auga |gam|khā kais ai a !hawixab ge:
- (a) Khoes hîa go |gam|khāsa 5 gomadi tamas ka io 30 |gui|nū |goanna nî madawa-am
  - (b) Ge †khari !amaxū!khais tamas ka io !hanasa |gam-i |kha khoes di |gûna nî kuruba
  - (c) |Gôas hî go |gam|khā kaihes hana nî skol|gôas kara i o !îs di skol†gâ marimā†uide nî mîba
  - (d) Ge !nā nî !nae †aro-i di !ae!khōmarimā†uide nî mîba tsî,
  - (e) |Gôa-i di †Hâga mîbasa nî mîba.
- !G10.2 !Kharab (|Gopanin di !nâu |garagu !oa kō re).

## !Garab 11: †Kham |gôan tsî !nî hâ khoen di !khō-ams

- !G11.1 †Kham |gôa-i ge khoe!nôa-i hîa !khō-ams tsî mā-amsa a mā !oa-e nēsib ga māsiba mati kara ī xawe. †Kham |gôa-i ge 16's xa †kham khoe-e, tamas ka io khoe-i sō!ôan |kha ā!gâu!gâusen hâ-e tamas ka io danalgaru hâ-e tamas ka io khoe-i hîa ga |gora!gâ-ao-i xa !khā tama-i hâ !khō-ams tamas ka io mā-amsa a mā !oa ti a |gora!gâ-i ti ra †âibasen.
- !G11.2 !Nā-amme khoen ge sao ra xūn ain go !khō-amsa a mā ti !gapalîhe tama hâ –
- (a) |goe-ūgus: nēs ge |gai!khōs ase nî !gapalîhe.
  - (b) !î-i di xū-e |khanas: nēs ge !naris ase nî !gapalîhe.
  - (c) khoe-i xa !gû-ūhes tamas ka io saos: nēs ge |gari!gû-ūs ase nî !gapalîhe.

## !Garab 12: |Gai!khōs

- !G12.1 |Gai!khōs ge khoe-i |kha |goe-ūgus !î-i di mā-ams ose ti ra !gā!gāhe.
- !G12.2 |Gai!khōs ge a †hawadī tsîs ge †hawadī |gora!gâsa !îs di |gora!gâsa nî dī.
- !G12.3 !Hao!nâsi †Gae†guis ge mati i ga ī xawe !hûhāsiba !ûi!khaeba tsî !îs di †hunuma !kharaba |gai!khōs di !nâs xa nî |gui-ai.
- !G12.4 |Gora!gâ ra |gora!gâ-ao-i ge !î-i di †hunuma |gora!gâsa nî sîsenū !nāti !kharaba |gui-ais !nâ.

## !Garab 13: Xū-e |khana-ais

- !G13.1 Khoe-i hoa-i ge ai†hanuba ūhâ !î-i di xū-e nau khoe-e mās tamas ka io !î-i di !honkhoesisa nau khoe-i ai !naosa !khaeche tamase.
- !G13.2 Ai!âsa i ge khoe-i xare-e ai†hanuba ūhâ tama hâ nau khoe-i di xū-e !nā khoe-i di mā-ams ose |khanasa. ?
- !G13.3 !G9.7'ba !oa kō re !kharab ams ai.

## !Garab 14: !Amal!khaes

- !G14.1 !Amal!khaes ge !û†ams ase nî !gapalîhe

#### IG14.2 #Kharab

- (a) Xūn hĩa nē #hanuo!nā |gaugu ai a hōsan ge ū-aihe tsī !Hao!nāsi #Gae#guisa nī māhe.
- (b) !Nāti a hōsa ai#hanugu ge nī !hanahe tsī i ge tsūdī-ao-e !nāti !gāi!gāba |gui kurib di |gaiba nī #oa!nā.
- (c) |Gui (1) gomas di mādawa-ams tamas ka io 6 (!nani) lui!nū |goan ge !Hao!nāsi #Gae#guisa ra māhe tsī !gau go !kharaba tsūdīhe go khoe-e ra māhe, !nā tsūdīb di marisi !nōb !oagu tamas ka io !nā goro !amalkhaehe xū-i di marisi !nōb !oagu.

#### !Garab 15: !Khari#huwis

IG15.1 Khoe-i hĩa nau khoe-i di xū-e #huwib |kha ra #khōa-i tamas ka io !lī-i di #huwiba ra !aromaba-i hoa i ge !khari#huwis ai a !hawixa.

#### IG15.2 #Kharab

- (a) #Khōahe go xūn ge nī !khō!khunihe tsī |gui !nonalī !âb !nā xūn dib ge Namibia Dolagu !nā nī matarehe !nā go #khōahe xūn di !honkhoe-e !oa.
- (b) Tamas kara ī o i ge |gora!gā ra khoe-e !lī-i di |gora!gāsa nī sīsen-ū tsī |gau ra !kharaba nī |gui-ai.

#### !Garab 16: Surudegus !aroma hā #noagudi

IG16.1 Khoe-i hĩa xū-e nau khoe-i xa surudehe hā-i ge tā aitsama |gora!gāsa !līdi di !omdi !nā nī ū tsī !nāti ī surudeba !nā !kharib di Danakhoeb tawa nī !nurihe.

IG16.2 !Nāti ī māsib ge nī |gora!gāhe tsī i ge |gari ra mīmāsa nī |gui-aihe, tsī ni madawa gai he.

#### !Garab 17: Kā hā barden tamas ka io nau |gurun

IG17.1 Kā hā barde-i tamas ka io |guru-e kara hō khoe-i ge !nāti ī barde-ē !nā !kharib di Danakhoe-i ai nī !nuri tsī i ge !nā-e |gau rase #hōa#gares !nā nī #an#an, tsī !Hūhasib !oa.

IG17.2 !Nāti ī barden ga kurib !nā hā mūhōhe tama kara ī on i ge !nāti ī bardena go nē kurigu !nā !ūi!gā, |gam-e mā, !ae!khō tsī goro !ūre kai khoe-e Danakhoe-e nī #an#an ī i |gora!gāsa dī nē xūn di !khonkhoesis xa.

IG17.3 Banden go hōhe tsī #hōa#gares !nā #an#anhe !ae!ba xu !nani (6) !khāna !kharu hāse noxopa hā mūhōhe tama barden go ōa #khari barderon ge !nā bardena go hō khoe-i dī.

IG17.4 !Nāti kā hā bardena hō tsī !nuri tama is ge nē !lara!ās !oagu ra hā ai#hanuga ra #oa!nā kai, tsi !narits go tira #āibasen.

#### !Garab 18: #Haras

IG18.1 Khoe-i hoa-i hĩa –



- (a) |gora!gâs di |kharab, |gora!gâs tawa hâs tamas ka io |gora!gâs !nâ sî  
xotuisa ra a ra #hara-i
- (b) #hanu tama xotuisa ra mǎ-i tamas ka io,
- (c) |gora!gâs khao!gâ go mǎhe |gui-aisa ra #hara-i,  
ge !û#ams ai a |hawixa.
- IG18.2 |Nāti khoe-i ge |gui (1) gomas tamas ka io 6 (!nani) |ui|nū |goanna nî matare  
tamas ka io |lîn di |nōba ūhâ marisa. Tamas ka io i ge |Hûhâsib di |Gora!gâ!khaib  
di #Hanumāsa 2003 (No. 10 2003|lî kurib disa) i go a !û#am ti nî !nuri!gâhe, tsî i  
ge #khawadîb di |gora!gâ!khaib !nâ a |gora!gâhe tsî |kharache |kha.

### !Garab 19: Kō!gâ!gora!gâs di |gora!gâ!khaib

- IG19.1 Kō!gâ!gora!gâs di |gora!gâ!khaib ge Gao-i tsî |gam |khara kaikhoen !Hao!nâsi  
#Nûsa xu Gao-i xa |Gaumâihe hâna xu nî !amlarehe tsî |nî soagu ai |gau!nasa  
#hanumā #ansabe-i tsîna.
- IG19.2 Khoe-i hîa ga !Hao!nâsi |gora!gâ!khaib xa i go #hanuo!nâse a |gora!gâhe,  
|hawixase hōhe, tamas ka io a |kharache-i ge Kō!gâ!gora!gâs di |gora!gâ!khaiba  
!oa |khawa |gora!gâs !aroma #ganamsensa a dî |khâ 30 tsēdi-î |nāti |gora!gâs  
khao!gâ !kharu tama hîa.
- IG19.3 Danakhoe-i ge 14 (disihakala) tsēde !nâ |nāti #ganamsensa i !khō!oa hâs  
khao!gâ |khawa |gora!gâsa nî mǎ#gā tsî !aromadi |gora!gâs did tsîna tsî matis  
ge |gora!gâsa a !gûlnâ |khais di xoamâisa xûn hoan |kha Kō!gâ!gora!gâs di  
|gora!gâ!khaib tawa.
- IG19.4 Kō!gâ!gora!gâs di |gora!gâ!khaib ge !hao!nâsi |gora!gâ!khaib go mâ-hâi  
mî|guisa a !khō!gâ tamas ka ao#ui |khâ.

### !Garab 20: |Hûhâsib di |gora!gâ!khaib

- IG20.1 |Hûhâsib di |gora!gâ!khaib ge |gaiba nî ūhâ îb #khawadî |hōgu tsî khoesi #noagu  
|hōgu tsîna |gora!gâ |Gopani !hao!nâsi |hûhâsib di |anin ra |hao!nâga tsîb ge  
|gora!gâsa |na |hûhâsib di !hao!nâsib di |garagu tsî sîsen|gaugu !oagu nî |gora!gâ.
- IG20.2 !Hao!nâsi |gora!gâ-ao-i tamas ka io Gao-i xa |gaumâisa khoe-i ge |hōga |hûhâsib  
di |gora!gâ!khaib ai nî |gora!gâ.
- IG20.3 |Hûhâsib di |gora!gâ!khaib di sîsabe-i ge |gora!gâ-aob di |gui#amdi !oagu |gui nî  
sîsen |nāti |gora!gâ!khaib go a !khōsis !nâ ū kai khoe-e sao!gon tsî !khōs !nâ.

### !G20.4 |Gora!gâ!khaib di sîsen|gaugu

- (a) |Hō-i kara !nurihe o i ge Danakhoe-e !nuri-ao-i #noabasen ra khoe-  
i!nuri!gâhe go khoe-i tsî mû goro xotui-aon tsîna nî #gai#gā |gora!gâs  
!oa.
- (b) Hoa khoen hîa |hōb !nâ nî |haon kara hâ on ge nî mâ!âu |gora!gâ ra  
Danakhoe-en nî !khō!oas kōse.
- (c) !Nuri!gâs tsî #âibasens tsîn ge |gora!gâ ra Danakhoe-i xa nî #an#anhe tsîs  
ge |gora!gâsa sao rase nî ai!gû:

- (i) !Nuri!gâ go khoe-i ga soasa māhe tsî lî-i di mîsa kara mîtoa o i ge lhawi†gâhe ra khoe-e soasa nî māhe î i lî-e !nuri!gâ-ao-e dîde dî.
- (ii) !Nuri!gâ-ao-i ge lî-i kara !nuri!gâtoas khao!gâ lnā!nūbai xotui-aona a †gaikhâi lkhā.
- (iii) !Nuri!gâhe ra khoe-i ge xotui-aona lnā xotuis khao!gâ dîna a dî lka.
- (iv) !Nuri!gâ ra khoe-i tamas ka io !nuri!gâhe ra khoe-i tamas ka io lîn di xotui-aon ra lî-i di lkhāba mî laeb ai i ge lgora!gâ ra Danakhoe-i lgui-e ai†hanuba ūhâ lnā khoe-e lara tsî dîde dîsa xase lnāsa !gāsasiba hōs !aroma lgui î i loasa tsî !gāsa †ansa hō tare-i ra !gûlnā !khaisa xa.
- (v) !Nuri!gâ ra khoe-i kara !hoatoas khao!gâ i ge !nuri!gâhe go khoe-i tsîna lguitikō soa nî māhe tsî †guro goro !nuri!gâ-ao-i tawa !gôa lgaragu lkhāgu !nāga.
- (vi) lGaulgaun ge mâ lae-i hoa-i ai lgora!gâs ra ai!gû laeb ai a māhe lkhā.
- (vii) Hoa lgam lkhākha di khoen ge soa nî māhe in lams ai luniga mîsa lamlamū lkhā.
- (viii) Nē khoen ga lîn di luniga mîde kara mîtoas khao!gâ i ge lgora!gâ ra Danakhoe-e lî-i di nî mā.
- (d) Hana i ga kaira khoe-e nî !hasarahes kara ho-†ūba ob ge sao ra lgora!gâ!gauba nî ūhe:
  - (i) lNāti tsūdīb lka a lhawixa khoe-i ge lnā kaira khoe-i di oms ai sores ra lhai timisi !uri gūs lka nî sî.
  - (ii) Kaira khoe-i lnā-i ge lnā !uri gūsa !khailgoaga nî †ā.
  - (iii) lHawixase go hōhe khoe-i ge lnā gūs di laob !nā nî lāsen.
  - (iv) lHawixase go hōhe khoe-i ge gūs di lharaba laes †namipe nî xari!ā lûbaba ra †ganse.
  - (v) lHawixa khoe-i ge lnās khao!gâ laesa nî uri!napu lûbab di !khō!oasa ra lgaullgau saos ase.
  - (vi) lHawixa khoe-i ga !urigūsa ūhâ tama kara î o i ge lîn di laokhoen xa nî haubahe lûbab di xūdīs !aroma.
  - (vii) !Nona (3) lkhāgu di !gari sîsenni khao!gâ i ge lhawixa khoe-e Gao-i ais ai nî †hai tsî lkhāti lApemā!nans ai!â tsî lî-i go tsūdī khoe-i ai lûbaba nî †gan.
- (e) Hanas ga †noagusa lgam lkhara kaikhoen laegu nî hās kara ob ge lkhā lgaub (b)′b !nā go mî!gā!gāheb lkhāba nî dîhe xawe i ge lhawixa khoe-e †khôadīb di mādawa-amsa nî †ganhe !gari sîsenni ose.
- (f) lGôa-i ga lî-i di lgû-e nî lgoes kara, o i ge lgui gomasa lî-i di lgû-e nî mā lûbab di †gans di lgaullgaus ase. lNās khao!gâ i ge lnāti lhawi!hawisen hâ lgôa-e lGora!gâ!khaib ai!â nî †hai î i lûbaba †gan.

## !Garab 21: !Ōb di dīxūn

!G21.1 !Napetamase i ge !khara kaikhoe-e nī tōasis kara on ge tsābalhao-aona !nā khoe-i di !ōb go a †an†anhes khao!gā !nona tsēde !kharu tsī !nā †opab go hā-ai !gāu-arisa nī sari xawe !khai!nā!omses ose.

!G21.2 !Gui tsēsa !khōs go hātoas khao!gā !kharu tsī i ge !khāi!goag !ō!gauhe go !aokhoena nī Khōhe tsīs ge nēsa Tsaokhās !kha nī !amlamhe.

!G21.3 !Oataras ge !īs di !ui!aokhoen !kha nī hā khara khoeb xas nī !gammeb !aroma !khawa †ganhes kōse.

!G21.4 !Ōxuhe go aob ge taras ga !ōtoas khao!gā !khara tara-i tamas ka io !ō go taras di !gāsa a !gamme !khā.

Nē !garagu ge Goreses ai go xoa!gaohe nē tsēs 13 July ai nē kurib 2012 !nā.

Xoa!gaosa go

Gaob Stefanus Gariseb

!Gobanin !Hao!nāsi †Gae†guis

[xoa!gaos]

Mû!gā-ao-i 1

[xoa!gaos]

Mû!gā-ao-i 2

Nē !Gobanin !Hao!nāsi †hanugu ge Theo !Goagoseb, Johanna †Ouses, Joseph Araeb tsi, Dawid Dunige Hererob xa ge !amlarehe tsi †nûi-!khunisa Hans †Eixab, tsi Levi Namaseb xa.



## THE LAWS OF THE |GOBANIN



## Preamble<sup>3</sup>

This customary law has been drawn up according to the Traditional Authorities Act, 2000 (No. 25 of 2000), subject to section 3 entitled “Powers, duties and functions of the Traditional Authorities and members thereof”, and more specifically subsection 3(c), namely “In the performance of its duties and functions under this Act, a traditional authority may ... make customary laws”.

The !Gobanin are one of the Damara tribes. They are found mostly in the Kalahari Desert (!Gobas) in east-central Namibia.

The !Gobanin were nomadic. However, because of better grazing and tribal conflicts, among other reasons, their land was taken away by the colonisers and partly declared as Hereroland and partly as white-owned land.

Their powers, status and dignity were diluted by colonial ideas and the power they had over their subjects was weakened.

Their traditional beliefs and norms and practices could also not be exercised freely.

After Namibia’s Independence, the new government drafted a new Constitution according to which traditional land was recognised and the !Gobanin could also benefit.

The !Gobanin Traditional Authority is therefore thankful to the Almighty for the independence of our country, and to the men and women who sacrificed their lives and led us during those hard times.

Long live the Government of the Republic of Namibia.

## Section 1: Definitions

|                      |                                                                                                                                                                                                                                                                                          |
|----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Chief</i>         | Any member elected, nominated or appointed through secret ballot from the !Gobanin Royal House or the !Gobanin traditional community by the !Gobanin Traditional Authority and named Chief ( <i>Gaob</i> or <i>Gaos</i> ), i.e. the supreme leader of the !Gobanin traditional community |
| <i>communal land</i> | The communal areas inhabited by the !Gobanin, namely the #Nössōb, and Oliphants, Skaap, Auob, #Khôanlōb, Gai !Gowas, !Awa !Gowas, and any other ancestral land that belongs to the !Gobanin traditional community                                                                        |

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3 This compilation of the !Gobanin customary law was prepared by Theo !Goagoseb, Johanna #Ouses, Joseph Araeb and David Dunige Hererob, and was translated by Hans #Eixab and Prof. Levi Namaseb.

|                              |                                                                                                 |
|------------------------------|-------------------------------------------------------------------------------------------------|
| <i>customary law</i>         | The Supreme Law of the  Gobanin                                                                 |
| <i>Supreme Council</i>       | The superordinate organ in which the governing powers of the  Gobanin are vested                |
| <i>traditional community</i> | The traditional residents of the areas defined under <i>communal land</i>                       |
| <i>traditional leader</i>    | All traditional leaders elected, nominated or appointed by the <i>Gaob/Goas</i> of the  Gobanin |
| <i>traditional land</i>      | All traditional areas inhabited by the  Gobanin (see also <i>communal land</i> above)           |

## Section 2: Traditional land (communal land)

The traditional land of the |Gobanin shall be in the Gai |Gowas, |Awa |Gowas, ‡Nōsōb, Oliphants, Skaap, Auob, and ‡Khōanlōb inhabited by the members of the |Gobanin.

## Section 3: The main seat

The main seat of the Traditional Authority shall be the Goreses Reserve, which is situated approximately 30 km west of Otjinene in the Omaheke Region.

## Section 4: Emblem and motto

- 4.1 The aardvark (also known as the *antbear*; |*khubub*, or *Orycteropus afer*) shall serve as the clan emblem.
- 4.2 *Ma|hao*, !*Gōasib*, |*Gaib* (“unity, respect, strength”) shall serve as the clan motto.

## Section 5: Colours

- 5.1 The clan colours shall be green and white.
- 5.2 The green shall symbolise life, prosperity and food security.
- 5.3 The white shall symbolise peace within the |Gobanin and peaceful coexistence with other communities and the world at large.

## Section 6: The traditional flag

The traditional flag shall be green and white, with the aardvark (|*khubub*) featuring prominently in the middle with the motto *Ma|hao*, !*Gōasib*, |*Gaib* (“unity, respect, strength”).

## Section 7: The traditional anthem

There shall be a traditional anthem entitled “‡*Nukhoe !haose hare*” (“Damara clan, come”).



## Section 8: The organs of the !Gobanin Traditional Authority

### 8.1 The !Gobanin Traditional Authority

- 8.1.1 There shall be a !Gobanin Traditional Authority for the !Gobanin traditional community.
- 8.1.2 The establishment, powers, duties and functions of the Traditional Authority shall be as defined in the Traditional Authorities Act, 2000 (No. 25 of 2000).

### 8.2 The Supreme Council (!Guris)

- 8.2.1 There shall be a Supreme Council for the !Gobanin traditional community.
- 8.2.2 The Supreme Council shall be composed from delegated members of the !Gobanin traditional community and members of the Elders', Women's and Youth Councils.
- 8.2.3 The main function of the Supreme Council shall be to endorse, govern, protect and execute the laws, values, and norms of the !Gobanin traditional community after consultation with the !Gobanin Royal House [*Gaolgâus*] and the community, to appoint the successor of the Chief (*Gaob*) in accordance with the rules of succession, and to cooperate with and adhere to the laws of the Republic of Namibia for peace and harmony (cf. also the Regulations at the end of this chapter).

### 8.3 The Chief (*Gaob/Gaos*)

- 8.3.1 The Chief shall be the supreme leader of the !Gobanin traditional community.
- 8.3.2 The Chief shall be from the royal bloodline of the !Gobanin Royal House (*Gaolgâus*) (cf. also the Regulations at the end of this chapter).
- 8.3.3 The Chief shall be at least 35 (thirty-five) years of age.
- 8.3.4 The Chief shall be the custodian of this customary law, and shall exercise his/her powers and perform his/her duties and functions according to this customary law.
- 8.3.5 Only a person equal to the Chief in status shall preside over his/her inauguration (cf. the Regulations at the end of this chapter for the process of inaugurating the Chief).
- 8.3.6 The language used during the Chief's inauguration ceremony shall be #Nūkhoe !Gowanikobab.
- 8.3.7 The Chief shall be the Chairperson of all traditional meetings and may delegate such authority to a Senior Traditional Councillor.

### 8.4 The Elders' Council (!Guri-!gaon)

- 8.4.1 There shall be an Elders' Council for the !Gobanin traditional community.
- 8.4.2 The minimum age for members of the Elders' Council shall be 60 (sixty) years.
- 8.4.3 The Elders' Council shall be guided by the customary law of the !Gobanin in all its activities.

8.4.4 The main function of the Elders' Council shall be to –

- (a) advise the Chief regarding the customs, values and culture of the *Gobanin*
- (b) maintain, teach and preserve the performing arts, artefacts and orature of the |Gobanin traditional community for its younger members, and
- (c) select from their ranks members and delegate them to the Supreme Council as need be.

## **8.5 Youth Cultural Group**

8.5.1 There shall be a Youth Cultural Group for the |Gobanin traditional community.

8.5.2 The maximum age of members of the Youth Cultural Group shall be 35 (thirty-five) years.

8.5.3 The Youth Culture Group shall be guided by the customary law in all its activities.

8.5.4 The main functions of the Youth Culture Group shall be to –

- (a) advise the Chief as regards their needs
- (b) learn about, organise, preserve and maintain the cultural activities of the |Gobanin traditional community, such as its performing arts, artefacts and orature
- (c) interact with other youth culture groups of other Traditional Authorities and learn from them
- (d) involve and participate in income-generating activities within the community, and
- (e) select members from its ranks and delegate them to the Supreme Council as need be.

## **8.6 Women's Cultural Group**

8.6.1 There shall be a Women's Cultural Group for the |Gobanin traditional community.

8.6.2 The minimum age of members of the Women's Cultural Group shall be 35 (thirty-five) years.

8.6.3 The Women's Cultural Group shall be guided by the customary law of the |Gobanin in all its activities.

8.6.4 The main function of the Women's Cultural Group shall be to –

- (a) advise the Chief concerning all their needs
- (b) learn about, teach, guide, maintain and preserve the cultural norms, customs and beliefs for all within the community, and to interact with women's groups in other Traditional Authorities
- (c) organise and become involved in income-generating projects within the traditional community
- (d) cooperate with women's councils from other Traditional Authorities, and
- (e) select members from its ranks and delegate them to the Supreme Council as need be.

## **Section 9: Meetings**

### **9.1 The Traditional Assembly (!Haosi ʔnûs)**

- 9.1.1 There shall be a Traditional Assembly for the !Gobanin traditional community.
- 9.1.2 The !Gobanin Traditional Assembly shall be held annually at the same date and venue as the traditional festival (cf. also the Regulations at the end of this section).
- 9.1.3 The !Gobanin Traditional Assembly shall be open to all members of the !Gobanin traditional community throughout Namibia.
- 9.1.4 The !Gobanin Traditional Assembly shall have the power to amend or repeal this customary law with a two-thirds majority of the members present.
- 9.1.5 The !Gobanin Traditional Assembly shall consist of the Chief, at least 10 (ten) members of the !Gobanin Traditional Authority, and members of the community fairly represented by the various structures of the !Gobanin traditional community.

### **9.2 Traditional Authority meetings**

- 9.2.1 There shall be a Traditional Authority meeting once every quarter of the year, that is four times a year.
- 9.2.2 Only the Chief and his/her Council shall attend such meetings.
- 9.2.3 The meeting shall discuss traditional concerns, customary conduct, and all other matters regarding the !Gobanin traditional community.
- 9.2.4 The quorum shall be 7 (seven) members of the Traditional Authority, and the Chief shall have the casting vote.
- 9.2.5 Any Traditional Authority member who fails to attend three consecutive meetings without a valid reason and without his/her apology being accepted by the Traditional Authority automatically discharges him-/herself from office.

### **9.3 Community meetings**

- 9.3.1 General community meetings shall be held for the !Gobanin traditional community.
- 9.3.2 Such meetings shall be open to all members of the traditional community.
- 9.3.3 The Chief and his/her Councillors shall convene the meeting whenever it is necessary.
- 9.3.4 The main purpose of such meetings shall be either to consult the community or to give them general information
- 9.3.5 The holding of any other community meeting under the banner of the !Gobanin traditional community without prior scrutiny and authorisation shall be regarded as a serious offence.

## **Section 10: Law and order**

- 10.1 Nobody shall take land without a written permission from the Chief.

- 10.2 Nobody shall settle or move onto the area of jurisdiction of the |Gobanin Traditional Authority without a written permission from the Chief.
- 10.3 Nobody shall move from one farm to another without the written permission from the Chief.
- 10.4 Nobody shall fence off communal land without written permission from the Chief.
- 10.5 Nobody shall be allowed to hold meetings, festivals or any gathering or activity at |Gobanin cultural sites without the permission of the Chief.
- 10.6 Nobody shall be allowed to collect firewood or any other natural resource for any purpose other than for household use without written permission from the Chief.
- 10.7 Nobody shall be allowed to transport livestock or meat without a letter from the Councillor of the area from where the meat is transported.
- 10.8 Nobody shall be allowed to take another person's livestock without its owner's consent (cf. also the Regulations at the end of this section).
- 10.9 Nobody shall be allowed to alienate another person's property without its owner's consent (cf. also the Regulations at the end of this section).
- 10.10 Adultery shall not be allowed and shall be punishable (cf. also the Regulations at the end of this section).
- 10.11 Having sex with another person without that person's consent shall be regarded as rape (cf. also the Regulations at the end of this section).
- 10.12 An intoxicated, mentally disturbed or minor person shall not be regarded as being competent to give their consent (cf. also the Regulations at the end of this section).
- 10.13 When a man impregnates a woman outside marriage, he shall be made to compensate her (cf. also the Regulations at the end of this section).
- 10.14 Sanctions shall be imposed on a person who swears or fights (cf. also the Regulations at the end of this section).
- 10.15 Nobody shall be allowed to take another person's life, whether by murder or euthanasia, or to take their own life (cf. also the Regulations at the end of this section).
- 10.16 Intentional abortion shall be punishable (cf. also the Regulations at the end of this section).

## Section 11: Regulations

- 11.1 The |Gobanin Traditional Authority shall make Regulations with regard to the following:
  - (a) Rules of succession for the |Gobanin Chief
  - (b) The definitions of *adult woman* and *adult man*.
  - (c) The traditional festival and the Traditional Assembly
  - (d) Customary marriage
  - (e) Divorce
  - (f) Inheritance of land, livestock or any other property
  - (g) Grazing of livestock on communal land and at water points
  - (h) Theft of livestock and other property
  - (i) Poaching

- (j) Killing, murder and abortion
- (k) Swearing and fighting
- (l) Impregnation of a woman outside marriage
- (m) Consent given by a minor to another
- (n) Rape
- (o) Adultery, and
- (p) Alienation of someone's property without its owner's consent.

## **Section 12: Title, commencement and amendment of this customary law**

- 12.1 The customary law of the |Gobanin shall come into force immediately after the Chief has signed it.
- 12.2 Any amendment or repeal of customary law or any part or section thereof shall be approved by a two-thirds majority of the members present at the Traditional Assembly.
- 12.3 Recommendations in connection with the amendment or other matters related to the amendment of customary law shall be submitted 30 (thirty) days in advance to the Secretary General of the |Gobanin Traditional Authority.

## **Regulations**

### **Regulation 1: Qualifying to be co-opted onto Traditional Authority organs**

- R1.1 Customary law shall set age limits in respect of the duties of Traditional Authority organs. For example, the Women's Cultural Group shall only allow women over the age of 35 (thirty-five) years as members.
- R1.2 According to |Gobanin custom, a person may also be coopted according to the following criteria:
  - (a) All persons shall be regarded as equal/eligible for cooption, irrespective of their marital status.
  - (b) All persons shall be regarded as eligible for cooption, irrespective of their social or economic position in the community.
  - (c) A person shall be accepted in the group, based on his/her skill and potential
- R1.3 It shall, however, be the prerogative of the group concerned to select the person or allow such persons as they see fit to hold office, provided that the group obeys the rules without favouritism.

### **Regulation 2: The |Gobanin Traditional Assembly and traditional festival**

- R2.1 The Traditional Assembly and the traditional festival shall be annual events that are normally held at the main seat of the |Gobanin at Goreses Reserve, and shall be planned to coincide on the |Gobanin annual programme in order to cut costs.

- R2.2 The Chief's Council shall, at their quarterly meetings, decide on the date of the Traditional Assembly and the traditional festival.
- R2.3 The decision on which to hold first shall be determined by the prevailing circumstances.
- R2.4 The Chief's Council shall arrive a day before the events (e.g. on a Thursday or Friday) to check on the Chief's office in order to ensure they have compiled the programme correctly.
- R2.5 Senior Traditional Councillors or Traditional Councillors shall receive guests and make arrangements where possible.

### **Regulation 3: Dethroning and succession of the Chief**

- R3.1 The |Gobanin Traditional Authority shall agree on the dethronement of the Chief of the |Gobanin in the event that s/he contravenes the traditional community's laws, norms and values.
- R3.2 The Chief shall be appointed from the royal bloodline of the |Gobanin Royal House (Gao-|Gaus) who are from the Chief's immediate family, particularly from the Chief's immediate mature children as well as his/her brothers or sisters and their children.
- R3.3 If a minor is appointed, s/he shall require a guardian.
- R3.4 The Chief shall vacate his/her office if there are sufficient reasons that warrant his/her removal from office, including –
  - (a) death
  - (b) being diagnosed as being mentally unfit by a medical practitioner and on the recommendation of such practitioner, and
  - (c) being Involved in criminal activities and found guilty in a court of law.
- R3.5 Succession shall be executed in consultation with the Elders' Council and the secret codes vested in the |Gobanin Traditional Authority.
- R3.6 The Supreme Council shall call an extraordinary meeting of the Traditional Assembly which shall, in consultation with the members of the Royal House (Gao- |Gaus), and according to section 8(2) of the Traditional Authorities Act, order the Chief to cease to perform the functions of his/her office.
- R3.7 The Traditional Authority shall then designate another member from the Royal House to act as Chief, and shall notify the relevant Minister as contemplated in section 8(1) of the Traditional Authorities Act.

### **Regulation 4: Marriage**

- R4.1 The |Gobanin traditional community regards marriage as the foundation of the bond that forms a responsible community.
- R4.2 |Gobanin custom dictates that only heterosexual persons shall marry each other.
- R4.3 |Gobanin custom dictates that traditional marriages shall be favoured, and shall allow a man to marry more than one woman.
- R4.4 A man and woman who have cohabited for 3 (three) years or more, with or without children, shall be approached and consulted about getting married.

- R4.5 Marriages without the prior knowledge of the family shall not be recognised by the |Gobanin traditional community unless a reasonable explanation is given and the matter is rectified by the Traditional Authority.
- R4.6 A woman shall use an *s* in her surname when she is married, e.g. *Gariseb* will be written *Garises*, because it is regarded as a traditional curse against the norms of the |Gobanin traditional community for a woman to use the letter *b* at the end of her surname because it indicates the masculine gender.

## **Regulation 5: Divorce**

- R5.1 When a man and a woman cease cohabiting, whether they do so with or without their children, it shall be regarded as their having been divorced.

## **Regulation 6: Inheritance**

- R6.1 The presiding Senior Headman/-woman shall always be guided by natural justice and so consider what is just and equitable in the distribution of an estate.
- R6.2 The said Headman/-woman shall prepare the distribution formula and forward it to the Chief for approval.
- R6.3 No estate shall be distributed unless so approved by the Chief.
- R6.4 The |Gobanin traditional community's inheritance procedures for the distribution of a deceased estate where the person died intestate shall be as follows:
- (a) In the case of a married man or woman, the surviving spouse and children shall be the intended beneficiaries of the deceased estate as well as the extended family and dependants.
  - (b) Where the children have abandoned the care of their parent or grandparent, the person that took care of such parent or grandparent shall also be considered as a beneficiary in the deceased estate.
  - (c) Children born outside marriage and adopted children shall also be considered in the distribution of such estate.

## **Regulation 7: Land**

- R7.1 The |Gobanin traditional community shall have the right to collectively own, share, control and use their land, which includes managing such resources, as well as developing or exploring other resources, plants, animals and sacred places such as graves and spiritual institutions.
- R7.2 All communal land over which the |Gobanin Traditional Authority has jurisdiction shall be used primarily for agricultural purposes unless prescribed otherwise.
- R7.3 All water points and grazing in such communal land shall be the property of the |Gobanin traditional community.
- R7.4 The Traditional Authority shall ensure that community members take care of such property and that they do not commit any act that may disturb, destroy or hinder the healthy and controlled use of water and land.

- R7.5 Everyone shall be liable for their water consumption as determined by the Water Point Committee.
- R7.6 Damaging water supply equipment and failing to pay for the use of water shall be regarded as an offence.
- R7.7 The unreasonable refusal to provide water or grazing to one's neighbour shall be prohibited.
- R7.8 Unless clearly fenced off and allowed by law for an individual, all land shall be jointly used for grazing by all members of that community, and destruction of grazing shall be an offence.
- R7.9 Any person found guilty of damaging water equipment shall repair the damage at his/her own cost within a stipulated period of time.
- R7.10 Any person found guilty of non-payment of water use for 3 (three) months shall be fined 1 (one) head of cattle or 6 (six) head of small stock.
- R7.11 Any person found guilty of causing a veld fire shall be fined 3 (three) head of cattle or 18 (eighteen) head of small stock.

## **Regulation 8: Law and order offences**

### **R8.1 Abortion and baby dumping**

- (a) Any woman found guilty of aborting her pregnancy or any person assisting or advising such a woman with aborting or with dumping a newborn baby shall be guilty of an offence.
- (b) Attempting to abort a pregnancy shall also be an offence.
- (c) Sanctions
  - (i) Under the customary law of the !Gobanin, the guilty party shall perform such community work as the judge may determine at a crèche, kindergarten or day care centre for the period of 6 (six) months under the mentorship of an elderly woman.
  - (ii) Criminal justice in all cases shall take its course.

### **R8.2 False accusation**

- (a) Nobody shall be allowed to falsely accuse another person in order to harm their character or dignity.
- (b) Every community member shall have the right to be respected and to live together in harmony with others.
- (c) Sanctions
  - (i) Two head of small stock or N\$800 (eight hundred Namibia Dollars).
  - (ii) The Chief may appoint the local pastor to mentor the guilty party by submitting him/her to a one-month rehabilitation programme and to report to the Chief at the end of such programme.

### **R8.3 Cruelty to animals**

- (a) Inflicting physical harm to or cruelly killing animals shall be prohibited.
- (b) Animals shall be treated with the care and respect they deserve at all times.



- (c) Sanctions
  - (i) If a person mistreats his/her own animals, s/he shall be fined N\$300 (three hundred Namibia Dollars).
  - (ii) If a person mistreats another person's animals, the guilty party shall be fined N\$500 (five hundred Namibia Dollars); shall perform community work at the !Gobanin Market Centre for two months under the mentorship of one of the elders appointed by the Chief; and shall undergo a programme educating him/her on how to treat animals.
  - (iii) The Chief shall receive a monthly report on the rehabilitation of the guilty party.

#### **R8.4 Adultery**

- (a) These issues shall be dealt with via !Gobanin secret codes.<sup>4</sup>
- (b) Sanctions (cf. the Regulations on !Gobanin secret codes.<sup>5</sup>

#### **R8.5 Assault, indecent assault, threats and violence**

- (a) Assault, indecent assault, threats and domestic and other forms of violence shall all be interpreted as having caused physical or spiritual harm to another person.
- (b) In the event of a lost limb or any other body part, and depending on the degree of harm, the compensation due shall range from 5 (five) head of cattle or small stock or both, plus all medical and transport costs.
- (c) In the case of permanent disability, the compensation due shall entail the cost of enabling equipment and/or devices as well as that of setting up an income-generating project for the victim's welfare such as a small market garden provided with water.
- (d) In the case of defamation by using profanity, the presiding judge shall apply his/her natural justice, weigh the impact of the damage/harm, and fine the guilty party for compensation ranging from 1 (one) head of cattle or 6 (six) head of small stock or both.

#### **R8.6 Poaching**

- (a) Wildlife is a natural resource that belongs to all and shall be used sustainably.
- (b) Killing a wild animal without a valid permit shall be an offence.
- (c) Sanctions
  - (i) The guilty party shall compensate for the damage caused, depending on the size and monetary value of the animal killed, or shall replace the animal or both, and shall also perform a month of community service as a rehabilitation programme with the Traditional Authority's Game Guards.

#### **R8.7 Theft**

- (a) Stealing shall be prohibited.

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4 Not published here.

5 Not published here.

- (b) Theft shall be compensated for and the item stolen shall be replaced on the following basis:
  - (i) If 1 (one) head of cattle or 6 (six) head of small stock (goats or sheep, but not usually a lamb) are stolen the perpetrator, shall be fined 3 (three) head of cattle or 18 (eighteen) head of small stock as specified, one head of either of which shall go to the Traditional Authority.
  - (ii) For the theft of a horse or donkey, the presiding judge shall judge according to natural justice depending on the animal's domestication, e. g. a horse could be a racehorse, or a dog could be a guard dog.
  - (iii) If 1 (one) head of cattle is stolen, 3 (three) head of cattle or 18 (eighteen) head of small stock shall be returned in compensation.
  - (iv) If 1 (one) goat or sheep is stolen, 3 (three) shall be returned in each case, or the current monetary value of their meat shall determine the fine imposed.
  - (v) Stolen property other than livestock shall be compensated for according to the value of such property.
  - (vi) If the stolen item is retrieved, then compensation shall be for one-and-a-half times its value.

## **Regulation 9: Killing, murder and euthanasia**

- R9.1 Killing, murder and euthanasia entail taking another person's life and shall be regarded as a very serious offence.
- R9.2 In such cases, the criminal justice system shall take its course in addition to the following traditional forms of compensation being imposed:
- (a) If a person is found guilty of the death of his/her child, then s/he shall pay all the funeral costs.
  - (b) If a person is found guilty of the death of his/her spouse, then s/he shall pay all the funeral costs.
  - (c) In the case of either R9.2(a) or R9.2(b), the Chief shall also bring the two families together to work out the best and most affordable solution to any conflict that may arise regarding funeral expenses or internal conflict between the parents of the deceased child (R9.2(a)) or between the family of the victim and that of the accused (R9.2(b)).
- R9.3 Euthanasia will be difficult to prove, but if the presiding judge finds enough evidence that someone has helped another person to die, the judge shall be guided by natural justice and the above procedures shall apply.

## **Regulation 10: Impregnation of a woman outside marriage**

- R10.1 A man who is guilty of impregnating a woman outside marriage shall –
- (a) pay the impregnated woman compensation of 5 (five) head of cattle or 30 (thirty) head of small stock

- (b) establish a small garden provided with water for the woman's parents
  - (c) if the impregnation involves a school-going girl, be responsible for her education fees
  - (d) bear the medical costs associated with childbirth, and
  - (e) pay for [the child's] maintenance.
- R10.2 Sanctions (cf. the Regulations on |Gobanin secret codes).<sup>6</sup>

### **Regulation 11: Consent by minors and other defined groups**

- R11.1 *Minors* are groups of people who cannot give their permission or consent no matter the circumstances. A *minor* shall be defined as a child under the age of 16, a person under the influence of any intoxicating substance, a mentally disabled person, or any other person whom the presiding judge may deem unfit to give their consent.
- R11.2 Such individuals shall not be deemed as having consented to –
- (a) sexual intercourse: this shall be construed as rape.
  - (b) the alienation of their property: this shall be construed as theft.
  - (c) being taken away by or accompanying someone: this shall be construed as abduction or kidnapping.

### **Regulation 12: Rape**

- R12.1 *Rape* shall be defined as having sex with someone without his/her consent.
- R12.2 Rape shall be a criminal offence and the criminal justice system shall take its course.
- R12.3 The Traditional Authority shall nonetheless safeguard the community and shall impose its own sanctions in the case of rape.
- R12.4 The presiding judge of the Customary Court will use his/her natural justice as a guide in imposing such sanctions.

### **Regulation 13: Alienation of property**

- R13.1 Everyone shall have the right to alienate his/her property to another person or to transfer title in his/her property to another without limitations.
- R13.2 No one shall alienate the property of another person without the consent of the owner of such property.
- R13.3 See R8.7 above for sanctions.

### **Regulation 14: Bribery**

- R14.1 Bribery shall be regarded as an offence.

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6 Not published here.

**R14.2 Sanctions**

- (a) Things obtained through such unlawful dealings shall be confiscated and forfeited to the Traditional Authority.
- (b) Rights so received shall be withdrawn and the culprit shall forfeit the benefits of such right for a minimum period of 1 (one) year.
- (c) The person who accepted a bribe shall pay the victim of such bribery compensation of 1 (one) head of cattle or 6 (six) head of small stock, while the person accused of bribing another shall pay a fine of 2 (two) head of cattle or the small stock equivalent, of which 1 (one) head of cattle or the small stock equivalent shall be paid to the Traditional Authority.

**Regulation 15: Arson**

- R15.1 Any person causing damage to the property of others by setting it alight or causing it to burn shall be guilty of arson.

**R15.2 Sanctions**

- (a) The damaged property shall be replaced and one third of the value of such property shall be paid in Namibia Dollars to the owner of the property.
- (b) Alternatively, the presiding judge shall use his/her discretion to determine an appropriate sanction.

**Regulation 16: Dispute over indebtedness**

- R16.1 A person to whom someone owes something shall not be permitted to take the law into his/her own hands if a dispute should arise regarding the matter, and shall report it to the Headman in the area concerned.
- R16.2 Such a cause shall be heard and a binding order shall be made to pay back what s/he owes.

**Regulation 17: Lost livestock or other animals**

- R17.1 Any person who finds lost livestock or other animals shall report such loss to a traditional leader in the area concerned, who shall make an appropriate announcement on the radio.
- R17.2 If no one claims the animals within a period of 3 (three) years, the person or community who took care of and provided water, medical treatment and grazing to such animals shall take the matter to the Headman in order to declare their ownership.
- R17.3 If the owner of lost livestock fails to claim such animals within a period of 6 (six) months, the person who found the lost livestock shall claim ownership over all newborn offspring of such animals.

- R17.4 Failure to report the discovery of lost animals within 7 (seven) days shall result in the person in possession of such lost animals forfeiting his/her rights under this section, and in the animals being regarded as stolen.

### **Regulation 18: Refusal**

- R18.1 Any person who –  
    (a) refuses to pay a court fine, attend a hearing or testify in court  
    (b) bears false testimony, or  
    (c) fails to honour a court order,  
shall be guilty of an offence.
- R18.2 Such person shall pay a fine of 1 (one) head of cattle or 6 (six) head of small stock or their respective equivalent in monetary value, and shall be charged with contravening the Community Courts Act, 2003 (No. 10 of 2003).

### **Regulation 19: Appeal Tribunal**

- R19.1 The Appeal Tribunal shall consist of the Chief and two elders so appointed by the Chief from the Traditional Assembly and, in some cases, a qualified legal practitioner.
- R19.2 Any person who feels aggrieved by a Community Court, conviction or sentencing may lodge an appeal with the Appeal Tribunal within a period of 30 days after the court judgment.
- R19.3 The Headman shall, within 14 (fourteen) days of receipt of such a notification, submit the appeal, the reasons of the judgment, and the minutes of the proceedings to the Tribunal.
- R19.4 The Tribunal may confirm or set aside the decision of the Community Court.

### **Regulation 20: The Community Court**

- R20.1 The Community Court shall have the power to try civil and criminal matters in which members of the !Gobanin traditional community are involved, and shall adjudicate in accordance with the said community's traditional law and customs.
- R20.2 The traditional judge or such persons as appointed by the Chief shall preside over matters before the Community Court.
- R20.3 The Messenger of the Community Court shall act solely in accordance with the directives of the judge in apprehending persons and in executing any order of the Court.
- R20.4 Court proceedings**
- (a) Once a matter has been reported, the Headman shall summon the complainant, the accused/defendant and witnesses to a hearing.
- (b) Once all persons related with the hearing are present, everyone shall stand in order to receive the presiding Headman.

- (c) The charges and purpose shall be introduced by the presiding Headman and the matter shall proceed as follows:
  - (i) After the complainant has been allowed to state his/her case, the accused shall have the opportunity to ask questions (cross-examination).
  - (ii) The complainant may introduce witnesses immediately after s/he has testified.
  - (iii) The accused shall then have an opportunity to ask questions (cross-examination) immediately after the witnesses for the complainant have testified.
  - (iv) During any testimony given by either side or witnesses, only the presiding Headman shall be authorised to interrupt to ask questions and then only on a point of clarity, as s/he is required to have a full understanding of all the relevant information.
  - (v) Thereafter, once the complainant has completed presenting his/her case, the accused shall be heard and the exact same rules shall apply as for the complainant.
  - (vi) Evidence may be produced at any relevant time during the proceedings.
  - (vii) Both parties shall be afforded an opportunity to make closing statements.
  - (viii) The presiding Headman shall give his/her judgment after the respective closing statements.
- (d) In the event that an elderly person has been treated disrespectfully or in any other derogatory manner, the following procedure shall apply:
  - (i) The person guilty of such offence shall arrive at the elderly person's residence at daybreak with a white sheep.
  - (ii) The elderly person shall immediately slaughter the white sheep in the early morning.
  - (iii) The person guilty of the offence shall bathe in the sheep's blood.
  - (iii) The accused shall scatter the sheep's waste around a fire while s/he begs for forgiveness.
  - (iv) The accused shall then jump over the fire as a sign of having been forgiven and to confirm that forgiveness has taken place.
  - (v) If the accused does not have a white sheep, then his/her family shall bring such an animal for the forgiveness ceremony, failing which the accused shall perform hard labour for 3 (three) months.
  - (vii) After 3 (three) months of hard labour, the person guilty of the offence shall appear before the Chief's Council and shall beg the forgiveness of the offended person.
- (e) In the event that a dispute should arise between 2 (two) adults, the same procedure as described in (d) above shall be followed, but damages may be claimed from the guilty party instead of the imposition of hard labour.

- (f) If a child swears at his/her parent, the child shall give 1 (one) head of cattle to such parent as a request to be forgiven, after which the child shall appear before the Court and ask for forgiveness.

### **Regulation 21: Death rituals**

- R21.1 In the unfortunate passing of an elderly person, 3 (three) days after the announcement of his/her death, mourners shall be permitted to visit the house of the deceased provided they do not come empty-handed.
- R21.2 Early in the morning one day after the burial, the surviving members of the deceased's family shall undergo the *Khos* ceremony, which shall be concluded with the *Tsao gas* ritual.
- R21.3 A widow shall remain with her late husband's family until such time as someone asks for her hand in marriage again.
- R21.4 A widower shall have the right to marry another woman or his late wife's sister.

These Regulations were signed at Goreses on the 13th day of July 2012.

[Signed]  
*Gaob* Stefanus Gariseb  
|Gobanin Traditional Authority

[Signed]  
Witness 1

[Signed]  
Witness 2

## CERTIFICATE OF CONSENT TO PUBLISH

UNIVERSITY OF NAMIBIA

FACULTY OF LAW

HUMAN RIGHTS AND DOCUMENTATION CENTRE

### RE: CONSENT TO PUBLICATION

I, the undersigned, Chief of the IGOBANIN Traditional Authority, hereby give consent to the Human Rights and Documentation Centre; to publish the following documents of the IGOBANIN Traditional Authority:

1. The Customary Laws
2. The Community Profile
3. Picture of the Chief
4. Logo of the Traditional Authority

I acknowledge that the Human Rights and Documentation Centre will publish the laws in our indigenous language ( ), as well as the English language. I am familiar with the contents of the laws that will be published and further acknowledge that they were prepared by my traditional authority.

Signed on this 13 day of July

At GORESES

Hon. Chief STEPHANUS GARISEB

Chief

Gariseb

For HRDC: A. Gariseb

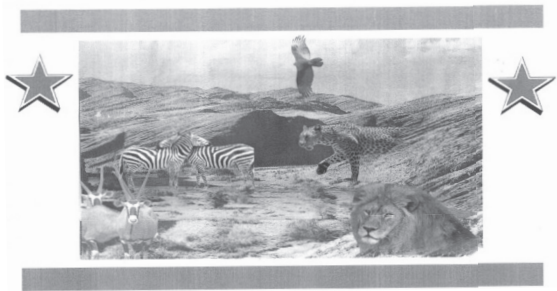




**THE |KHOMANÎN TRADITIONAL AUTHORITY**  
**|KHOMANÎN DI !HAO!NÂSI ‡GAE‡GUIS**



The supreme leader of the |Khomanîṇ traditional community,  
*Gaob¹* Josephat Gawa-!Nab, passed away on 9 October 2013.  
[A successor ha not been appointed at the time of going to press.]  
Date of designation: 25 March 1988



***/KHOMANIN TRADITIONAL AUTHORITY***

1        Traditional title in terms of section 11, Traditional Authorities Act, 2000 (No. 25 of 2000).

## PROFILE<sup>2</sup>

### 1. Preamble

This law is the self-statement of |Khomanîṇ customary law. The |Khomanîṇ originated in the Khomas Hochland. The name | Khomanîṇ is derived from the Khomas Hochland (Highlands) within the Khomas Region. The *Gaob/Gaos* (King/Queen) is the supreme leader of the |Khomanîṇ. The *Gaob/Gaos*, in consultation with the Council, makes, repeals or amends customary law, and thereafter presents the law to the community. The *Gaob/Gaos* is immune from any prosecution under this law.

The colonial authorities turned the land of the |Khomanîṇ into private farmland for whites. The |Khomanîṇ became labourers on their own land in the process. With nowhere to go, those who retired or were evicted from such farms are scattered across Namibia, and usually ended up in urban squatter camps. The |Khomanîṇ Traditional Authority will continuously petition the Government of the Republic of Namibia for the return of the Khomas Hochland to its people. This struggle for land will continue for generations to come until justice is done.

### 2. Overview of the |Khomanîṇ history

During the wars with the colonisers towards the beginning of the 1900s, a community of Damaras under the leadership of King Metusalag |Gaob Xamseb was scattered in the area between Okahandja and Windhoek. King Metusalag |Gaob Xamseb then responded to the plight of his community and led them to the safety of the Khomas Hochland. King Metusalem |Gaob Xamseb then settled the communities around different water points and/or fountains that could be found in the area. Here the Royal House of King Metusalag |Gaob Xamseb was established.

King Metusalag |Gaob Xamseb settled his community in the Hâgos area, also in the Khomas Hochland. On his way to Windhoek, he was killed by the Germans and buried at |Kurudaos. The present King of the |Khomanîṇ, Josephat Gawa-!Nab, is a direct descendant of King Metusalag |Gaob Xamseb. He revived the Royal House in 1951, and again during the political uprising at the Old Location in the mid-1960s; he has been the King of the |Khomanîṇ ever since.

Since traditional leadership goes hand in hand with ancestral land as an area of jurisdiction, it is worth mentioning which land issues attributed to the total degradation of the traditional leadership.

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2 This profile was provided by the |Khomanîṇ Traditional Authority.

By January 1904, the German Administration in the then German South West Africa (SWA) decided to confiscate land from the local inhabitants and sold or leased it at random together with portions of Crown land to the settlers. This enraged the indigenous peoples and, on 12 January 1904, the Herero nation led a rebellion. Other groups soon followed suit, but, in 1905, another mass immigration of South African farmers arrived in SWA, and after the war ended in around 1908, German settler numbers soon increased from 8,200 to 14,000.

The German colonial administration proclaimed !Ao-!Aexas, an area of approximately 9,900 ha, as a Native Reserve in 1907. !Ao-!Aexas is about 20 km west of Windhoek. In 1915, part of !Ao-!Aexas was proclaimed as a Nature Park. By 1932, the Nature Park had been enlarged to an area covering 1,387 ha. In 1958, !Ao-!Aexas, excluding the Nature Park, was sold to white farmers after the Damara community at !Ao-!Aexas was removed and resettled in Sorris-Sorris. The South West African Administration's decision to resettle the community of !Ao-!Aexas, which was under the leadership of Haraseb, continued until the 1950s under the leadership of Abraham Gariseb. A further 2,700 ha of !Ao-!Aexas was donated by the South West African Administration in 1962 to be added to a planned game park. In 1979, the name *Daan Viljoen Game Park* was given to this conservation area, by then measuring 3,946 ha. It was named after the South African administrator who presided over the removal of the Damara community to Sorris-Sorris. After Namibia's independence in 1990, the !Khomanin community who were previously evicted from !Ao-!Aexas moved to Kuri!gaob, Vasdraai, !Nao-oas-poort and Arovlei and they remained there.

The following warriors were deployed to fight against forced relocation by King Metusalag !Gaob Xamseb in the following areas in the Khomas Hochland:

1. Saskob, in the !Hoeses area
2. Tsausa ge !Kabe, in the Sandveld area
3. !Khoas-oab, in the Arugu-!Haub area
4. !Gari-!Nub, in the Gamsberg area
5. Idab, in the Brandberg area

Our ancestors used the following medicines for the ailments specified:

1. *Au-Au-I* – For cancer, high blood pressure and constipation
2. *Aukoreb* – For worms and stomach cramps
3. *Gama-ku-I* – For cleaning the womb after childbirth
4. *Xam-haib* – For blood in the stools
5. !Gire-haib – For diarrhoea, among many other ailments
6. !Gi-Xau-I – For chest pain
7. !Khuxab – For diarrhoea and a loss of appetite
8. !Nu-Haib – For constipation
9. !Noa-!Khoms – For heart problems

Our ancestors ate the following foods, among many others:<sup>3</sup>

1.     !Hab
2.     !Nain
3.     !Garo-!haian
4.     !Haeb
5.     !Nanan !Hunin
6.     ‡Aron
7.     ‡Haub
8.     ‡Kharin

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3       These are plants, animals and finished dishes.



|KHOMANÎN DI ðHANUGU

## EDITOR'S NOTE

As this book was about to go to the printer, the Human Rights and Documentation Centre (HRDC) of the University of Namibia was approached by some members of the |Khomanin community who stated their wish that we not publish the laws of the |Khomanin. A letter was addressed to the HRDC, stating that it was written on behalf of the writers (who identified themselves later as a “Technical Committee”), and not for the |Khomanin Traditional Authority. The complaint raised by the group was that “[they] as the community did not have an opportunity to discuss or give input, neither did ... [they] see the final work on the draft for the |Khomanin customary law”. The group of concerned members of the |Khomanin community was subsequently received by the HRDC, during which meeting they repeated their complaint.

The HRDC and the Editor of this publication decided after considering the said complaints that they would proceed with publication of the book, but have this Editor's Note for the information of the user of this publication. As stated in the Introduction to this Volume, and the Editor's General Note on page viii, it was not the task of the editorial team of this publication to verify the internal process that led to the self-stating of customary law by the various communities. For the editorial team, it was important to be given the duly stamped certificate of consent for publication by the Traditional Authority. It was not shown to the HRDC and the editorial team that the consent received from the |Khomanin Traditional Authority under the late supreme leader of the |Khomanin community was not valid.

This leaves it to the community, as the case may be, to enter into a process of amending or changing the laws as they are stated in this publication, in accordance with the rules of the respective communities and the provisions of the Traditional Authorities Act.



# **!Khomanîn !Aes !Hao!nâsi !Naetigu di †Hanumas**

## **1. !Hao!nâsi Sao!nâudi**

### **1.1 !Khaub**

- 1.1.1 !Khomanîn !Hao!nâsi laes di !khaub ge !am tsî !uri.
- 1.1.2 !Uri lûb ge †khîba ra !gau†ui tsî !am lûba !goaxalaeb di !âubasensa.

### **1.2 Krōns**

- 1.2.1 Gaob/s ra !gapa krōns ge xammi di khōb !kha kurusa tsî !anisa !ūs ai ūhâ.
- 1.2.2 Krōns ge !khasiba ra !gau†ui.

### **1.3 Gaosi !Kharub**

- 1.3.1 Gaob/s ge gaosis di !kharuba ūhâ.
- 1.3.2 !îb ge !khāsiba ra !gau†ui.

### **1.4 Gaosi Sarab**

- 1.4.1 Gaob/s ge gaosis di saraba ra †gae†gā.
- 1.4.2 Gaob/s ge !hao!nâsi !âudigu laeb ai †hoalapa saraba ra †gae†gā tsî !khara !hao!nâsi !âudigu tawa !uri saraba.
- 1.4.3 Nē sarab tsîn ge !khāsiba ra !gau†ui.

### **1.5 !Hao!nâsi ams**

- 1.5.1 !Khomanîn di !hao!nâsi ams ge “Ae, Sida !Khomase”, ti hâ.

## **2. !Hūhâsi †nûdi tsî !âudigū**

- 2.1 †Hābasa i as kōse di ge hoa!nâ-aixa !hūhâsi †nûde, !hao!nâsi †gae†guis xa nî †gai!haohe.
- 2.2 †Nûdi ge !aes !kha hōgus, †gae†guis ra !apelgui xūn tamas ka io dīhe ra xūn nî saogu !gauba !hoas, tamas ka io !aes nî tsâ!khā †hâ†hâsa mî!guide !goragu-ūs di.
- 2.3 !Khomanîn †gae†guis !apelgui hâse-i ge !gui !nāsa kurib !nâ !Khomanîn !âudiba nî dīhe.

## **3. Hâ-!khaib**

- 3.1 !Naetisa hâ-!khaib !Khomanîn dib ge !Khomas Hochland, sida aboxan ge !an ai hâ †ba: †Arovleis, Katuturas, Kurigaob tsi !Naoaspoorts tsina.

3.2 Dana †nû!khais |Khomanîn !Hao!nâsi †Gae†guis dis ge †Arovleis tawa hâ.

## 4. !Hao!nâsi †Gae†guis

### 4.1. †Gae†gui†gās

- 4.1.1 |Khomanîn !Hao!nâsi †Gae†guis ge sao rase a !amlaresa: Gaob/s, dana khoen, lapemā aon, tsî nau lnâuga ra †nû!khaeba khoen, ailgause, lnâu!gâ-aon, taradi, kaikhoen, tsî †kham khoen !nandi tsina.
- 4.1.2 Gaob/s di |Apemā!nans ge dana khoen tsi Gaob/s †ūbalsa xū hā.
- 4.1.3 !Hao!nâsi †Gae†guis ge Gaob/s xa ra †gaimâihe.
- 4.1.4 Gaob/s ge !Hao!nâsi †Gae†guis di !ani-e !haes tamas ka io !khō!khunis di !gaiba ūhâ, tamas ka io hoaraga !Hao!nâsi †Gae†guisa sîsen!û kaisa.

### 4.2 Gaob/s

- 4.2.1 Gaob/s ge |gapi †gae †gui-aob |Khomanîn dibalsa.
- 4.2.2 lib/s ge †hanumas xab/s ra |gui-aihes xō!khā, hālarosen ra ai†hanugu tsî |gui-aidi tsina lib/s di bēros di |gaib !kha, Gaob/s ase, !hao!nâsi †Hanumādi tsî !Naetigu |Khomanîn digu !oa ūhâ.
- 4.2.3 Tsî lib/s di |gui-aidi tsî ai†hanuga Gaob/s aseb māhe hâ †hanugu tsî !naetigu !oa nî sîsen†ui.

#### 4.2.4 !Kharu!kharus †garob

- (a) Sao ra gao-ao-i ge Gaob/s di gaohaisa xū nî †oaxa.
- (b) Sao ra gao-ao-i ge Gaob/s xa ra |gaumâihe.
- (c) Sao ra gao-ao-i ge malae-i hoa-i ai a |gaumaihe !kha, xawe 21!a kurixa-i kaso |gui gaosi sîsenni !kha a tsoatsoa !khā.
- (d) Sao ra gao-ao-i ge Gaob/s di lapemā!nans xa, Gaob/s di mûlāe !haolnâsise !aesa nî mâi-ai!âhe.
- (e) Gaob/s ge lnāti! gao-i ka a !aesa mâi-ai!ahes khao!gâ, lnā |gaumâisa a †gae-oa !oa.
- (f) !Nati-i |gaumâis ge |gaumâihe ra gao-I ga †gaimâisa anu tama i, o |gui !naga (k) !nâ i ra xoa!āilgāhe khami ra dîhe.
- (g) Gaosis !aroma râ |gaumâihe khoe-i ga kurin a-i !nâ †kham, o-i ge Gao-e lnāti-î †kham |gaumâisa khoe-i nî |gau!nā tsî daolgau khoe-e nî |gâumâi.
- (h) Nē ra |gaumâihe khoe-i ge Gaob/s ga gaosis di !haros !kha !aruli ai!gû tama i, o gaosis !aroma |gaumâihe hâ khoei nî gaosis di !harosa !khō!khunis kōse gaosis !haros !nâ nî †nû.
- (i) Nē !aerob |guiba |gaumâisa gao-i ge lnā kurin !naga hâ khoe-i Gaob/s xa ge †gaimâihe-e !hao!nâsi xūna |gau!nâ tsî lnā khoe-I ga 21!a kurixa !nūbai

tamas ka io kaise !haese !i-i kurixasis khao!ga gaosisa !nā khoe-i ai nī !khael!nā.

- (j) Nē khoe-i gao kai ra i ge (Gaob/s) ti nī !gai!ihe tsī nau khoe-i gao kai ge khoe-e gaosis !oa ge !ae!gui-i ge (Danakhoeb/s) ti nī !ailihe.
- (k) Gaosis !aroma ra !gaumaihe khoe-i ge sao ra māsigu !naga gaosisa anu tama hā:
  - (i) !i-i ga Gaob/s di !Apemā!nans xa khari!khōs tsī !huwulhwusenxūna sīsēnūs !kha !hawi!homo.
  - (ii) !i-i ga sao ra xūn !kha !hao!nāsi !nāu!gās tamas ka io !ā!khōmāis !nāu!gās xa a: !Gams, !gai!khōs, !khō!khōsa sīsēn!uiba ūhā !khaulnās !kha, !Goa!naris tsi Gaobalsa i ga khoe-e sorao.
  - (iii) !Gamme i hā khoe-i ga Damara tama i tamas ka io i ga !i-I !gūsi gowaba !Nūkhoegowa tama io.
  - (iv) !i-i ga !an!uihe !oa aorekhoe-i as tamas ka io tarekhoe-I asao.
  - (v) !i-i ga !uruloa-i a !ae!noa-e ūhāo.

#### 4.2.5 Gaob/s di ūlnāhes

- (a) Gaob/s ge !ō-i nīs kōse gaosis di !haros !nā ra hā.
- (b) Gaob/s ge !i-i di !uruo!nā māsib !aroma !gui !Hao!nāsi Naetigu !Nans tsī Danakhoen di !nans di !nāugusa xū gaosisa xū a ulnahe !khā.

### 4.3 !Hao!nāsi !Apemā!nans !anin

#### 4.3.1 Dana !hao!nāsi !apemā!nans !anin

- (a) Dana !hao!nāsi !apemā!nans !anin ge Gaob/s xa !apemās !aroma ra !gaumāihe.
- (b) !in ge Gaob/s !Apemā!nans di !ani kai ra.

#### 4.3.2 !Hao!nāsi !apemā!nans !anin

- (a) Mā !kharib hā !āusa !khomanin !an hāb hoab !aroma i ge !hao!nāsi !apemā!nans !aroma khoe-e nī !gaumāihe.
- (b) !Hao!nāsi !apemā!nans !anin ge !hūi!nāhe-i hā !kharib !nā !gui !i-I sīsenni !gaiba ūhā.
- (c) !Hao!nāsi !apemā!nans !ani-i ge !khāti !i-i di !ereams xō!khā !nī !gui!amdi tsina a !gui-aihe !khā.

### 4.4 Xoa-ao-i

#### 4.4.1 Xoa-ao-i ge:

- (a) Hoaraga sī!khanin !gāxa tsi ra !oan hoan Gaob/s tsī Gaob/s !apemā!nans !in di !ereamsa ūhā.

- (b) Hoaraga xoa-aosi sisenni di !ereams !Hao!nâsi !Naetigu disa ūhâ.
- (c) !Hao!nâsi !Naetigu !nans tsî Gaob/s !Apemā!nans di tûde hoallae hâ!nâ tsî !napa ra mîlguihe mîlguiga xoamâi tsî sâu, tûs di #hanu tsî ama mîlguib ase i ka ra mîlguihes khao!gâ.

## 4.5 Ai#nû-aob/s

- 4.5.1 Gaob/s ge lib/s di !khāsiba xū Ai#nû-ao-e t#gaimâi tamasa ka io nî !gaumâi. Nēti-ī khoe-i ge t#nûde Ai#nu-aose t#gae#gui tsî !kharaga !harigu ai Gaob/sa nî t#nûlkhæba.

## 5. !Hao!nâsi !Naetigu t#Gae#guis !nâ hâ !kharaga!nâgu !nandi

### 5.1 Gaob/s !Apemā!nans

- 5.1.1 Gaob/s !Apemā!nans ge Dana !Hao!nâsi !apemā khoen tsî Gaob/sa xu a !am!aresa.
- 5.1.2 Dana !Hao!nâsi !apema ra khoen ge ne !hao!nâsi !garagu tsi #hanub xa t#gae#guihe hâse sisentuib, !reamxasib tsî kō!gâs di !khāsiba ūhâ.
- 5.1.3 Gaob/s !apemā!nans ge luni mîlguiba ūhâ.
- 5.1.4 Gaob/s !apemā!nans ge !khāsiba ūhâ !hao!nâsi !nâu!gâ!khaib ra mā !kharaba mâtui, t#gae-oa, !kharalkhara tamasa ka io mā-amsa.

### 5.2 Kaikhoen di !nans

- 5.2.1 Kaikhoen di !nans ge !Inanidisi kurina xū !gapise hâ kurina ūhâ khoena xū a !am!aresa. Nē !nans ge !hûhāsib xa ra !lhûihe.
- 5.2.2 Ne !nans ge !hao!nâsi !naetigu tsî !garagu !Hao!nâsi t#Gae#guis diga ra t#gao#gao!na.
- 5.2.3 !in ge !huhasib di t#gan!gâsa #hanub di !ereamsa ūhâ. !in ge #hunumâ t#gae#gui ra #hanuba !am!ares, !garagu tsî sisenni !garaga !khō#gâ hâ xoalguiga dls, xawe hoaraga !garagu tsî xoalguigu ge nē !hao!nâsi #hanumās xa nî t#gae#guihe.
- 5.2.4 Kaikhoen di !nans ge !khati Gaob/s tsî !khāsiba ūhâ kaikhoen t#namie hâ māsigu t#ama !ereamsa ūhâ.

## 6. !Nâu!gâ !khaigu

### 6.1 !Hao!nâsi !nâu!gâ !khaib

- 6.1.1 !Hao!nâsi !nâu!gâ !khaib ge !khāsiba ūhâ hoaraga !hao!nâsi #hanub !hōga !nâu!gâ tsî !nâu!âgub kōse sîsa !huhasi !Nâu!gâs #Hanumās !namaba xū, !as 12.
- 6.1.2 Ma khoe-i hoa-i hia !nau!gahe tsî !lnas xa ra tsâlkhâhe-i ge Gaob/s !Apemā!nans tawa !khomxatgaohes !aroma nî t#ganamsen.
- 6.1.3 Gaob/s !Apemā!nans ge !khasiba uha khoe-i hia !khomxahe i nisa ra t#ganamsen-i nî ū!oahe tamasa ka io #harahesa.

- 6.1.4 !Hao!nasi !nau!ga !khaib ge Gaob/s †amai !kāsiba ūhâ tama hâ.  
 6.1.5 !Hao!nâsi !nâu!gâ !khaib ge †orisase di!nas tsi oa!nas di saoguba ni sao.  
 6.1.6 Mâ khoei-i hoa-i ge li-i ra †gao khoe-i hoa-i xa a †nû!khaebahe !khâ.  
 6.1.7 !Hao!nâsi !Naetigu †Gae†guis ge !nâu!gâ !khaib di mîlguide sîsen†uis di !reamsa ūhâ tsî !khâti !hû†hanub di huiba nēs !nâ a ōa !khâ.  
 6.1.8 !Hao!nâsi !nâu!gâ !khaib di mîlguigu ge !ā!nâsi !nâu!gâ !khaib !nâ-ū a sîsenxa kaihe !khâ.  
 6.1.9 !Hao!nâsi !nâu!gâ !khaib di mîlguib ge !hapixa khoe-i di !aokhoen !oagu a sîsenūhe !khâ.

## 6.2 !nâu!gâ !khaib !am!arehe hâ !gaub

- 6.2.1 !Nâu!ga !khaib ge !nâu!gâ-ao-i di †khâ!nâ-aon, !nâu!ga-aon, xoāaon tsî sî-aona xū !am!aresa tsî Gaob/s di !gâiba !oa ra !gaumâihe tamasa ka io ra †gâimâihe.

### 6.2.2 !Nâu!gâ-aon

- (a) !Nâu!gâ-aon ge Gaob/s xa Gaob/s !Apemā!nans di !nâugus !kha ra !gaumâihe tsî sî-aon xū !am!aresa tsî Gaob/s xa !khawa a !hû!lânâhe !khâ.  
 (b) !Nâu!gâ-aon ge hoaraga !hôn hîa !lîn di !gaib !naga ra !nân hoana ra †gae†gui.  
 (c) !Nâu!gâ-aon di !nans ge nî !am!arehe tsin ge !lîna Dana !Nâu!gâ ao-e nî !hûi.  
 (d) !î-i ge !nâu!gâ-aon di !nansa nî ai†nûba.

## 6.3 Dîsadi tsî !kharagu

- 6.3.1 6.3.5 !nâsa gu 6.3.10 !nâs kōse ra sao dîsa-ain aib ge !Hao!nâsi !Nâu!gâ !khaiba !gau ra !khara-aina a dî !khâ.  
 6.3.2 Nē !kharab ge !hapixa khoe-i di khoexa khoen tsîna a tsâlkhâ !khâ.  
 6.3.3 Hoaraga !kharab tsî disi persentgu matare-oas dîhe ra !kharab !hûhâsib !oagu hâgu hoagu ge !Hao!nâsi !Naetigu †gae†guis ai nî matarehel!nâu!gâ !khaib di omkhâihes !aroma.  
 6.3.4 !nâ mîsa disi persentgu ge !Hao!nâsi !naetigu †gae†guis xa !hapixa khoe-e a !gui-aihe !khâ.

### 6.3.5 †Kham !gôasa oaxaesisa †oa!nâs

- (a) Khoeb ga !game tama †kham !goas di oaxaesisa khôa, ob ge !kharaba a gowa†uihe !khâ, tsî !hapixa khoeba koro gomadi tamasa ka io marisi !kharaba !gui-ai !khâ. !Nati-i !nuri!gâs ge !gûn tamasa ka io mâba-aon !gôas din xa nî dîhe.  
 (b) Matare-oas !kharab ge !gûn tamasa ka io mâba-aon !nâti-î !gôas din tawa nî dîhe.

### 6.3.6 **!Kham !game tama !gôas di !gam!khā kaihes**

- (a) !Nâu!gâ !khaib ge gomas tsâu-i !kha has tamas ka io !nani piridi tamas ka io gûdi tamas ka io marisi !kharaba a !gui-ai !khā. !Nati-i !nuri!gâs ge !gûn tamas ka io mâba-aon !gôas din xa nî dîhe.
- (b) Matare-oas !kharab ge !gûn tamas ka io mâba-aon !nati-i !gôas din tawa nî dîhe.

### 6.3.7 **!Aib**

- (a) !Nonalli khoe-i hîa ra !hapixase hōhe i ge haka gomadi tamas ka io marisi !kharaba a !gui-aihe !khā.
- (b) !Nâu!gâ !khaib ge !âpio !game-ao-i nî nē haka gomade mǎhesa nî mîmā.
- (c) Nēti-ī !nuri!gâs ge !hâpio !game-ao-i xa ra dîhe.

### 6.3.8 **!Gai!khōs**

- (a) !Gai!khōs ge aorekhoeb ga tarekhoesa !îs di ma-ams ose !goe-ū, o ra hâ. Khoeb ge disilgam!ā gomadi tamas ka io marisi !kharabab tsûtsûhe go khoesa mǎse ra !gui-aihe.
- (b) !Gai!khohe ra khoes ga Aids khami i !aeba hō tamas ka io !gam!khā, ob ge !kharaba ra !gamdisihakalā gomade tamas ka io !nā gomadi !khāsiba ūha maris. !Nā gomade xūs ge !hao!nâsi !gae!guisa haka gomade nî mǎhe. !Hapixa khoeb ga !gamdisihakala gomade uha tama i, xawe !na gomadi !khāsib marisa ūhâo, ob ge !îba nî mîmǎhe ib !nā maris !kha disihakalā gomade !ama.

### 6.3.9 **!Gams**

- (a) !Hapixa khoe-i ge !gamdisikoro!ā gomadi kōse tamas ka io !nā gomadi !khāsiba ūhâ marisa a !gui-aihe !khā tsî !gamhe go khoe-i !aokhoena nî mǎhe.
- (b) !Nāti-i !nuri!gâs ge !gamhe hâ khoe-i di !aokhoen xa nî dîhe tsi !lin ge neti-i mataresa nî mǎhe.

### 6.3.10 **!Naris**

- (a) !Naris tsî !goa tamas ka io goma !naris di !kharab ge !honkhoe-i tsî !nari-ao-i tsin !aeku !Khomani !nâu!gâ-aon ais ai a !nâguhe !khā.
- (b) !Hapixa khoe-i ge !nona!naguse !narihe go xū-i !aroma !kharaba a !gui-aihe !kha, !honkhoe-e matare-oas !aroma
- (c) Xoalguisa !hû!guis !khanis ge hoa !gam khoen xa nî xoa!gaohe.
- (d) !Nâu!gâ !khaib ge !aru! nî !apemā matare-oas di !aeb, !hû!guis di !gaub tsî matis matare-oas di sîsen!uiba nî kō!gǎhesa.

- (e) Sao ra !gaugu aib ge !nâu!gâ !khaiba mâ !gaugu ain !narihe hâ xun di !honkhoena nî matare-oahesa ra !gau!ui:
- (i) !Gui (1) Piris - Koro (7) Piridi-2 (!gam) Pirira !Hao!nâsi †gae†guis !aroma tsî 5 (koro) Piride !nari-aihe ge khoe-e.
  - (ii) Gui (1) Gûs - Koro (7) Gûdi -2 (!gam) G0ra !Hao!nâsi †gae†guis !aroma tsî 5 (koro) G0de ge !nari-aihe ge khoe-e.
  - (iii) !Gui (1) Gomas - Koro (5) Gomadi -2 (!gam) Gomara !Hao!nâsi †gae†guis !aroma tsi 3 (!nona) gomade, !nari-aihe ge khoe e.
  - (iv) !Gui (1) Dâuki-i - !Nona (3) Daukidi !Gui (1) Daukisa !Hao!nâsi †gae†guis !aroma tsî 2 (!gam) dâukira, !nari-aihe ge khoe-e.
  - (v) !Gui (1) Ha-i - !Nona (3) Hadi !Gui (1) hasa !Hao!nâsi †gae†guis !aroma tsi 2 (!gam) hara, !nari-aihe ge khoe-e.
  - (vi) !Gui (1) Anis - Hu (7) anidi !Gam (2) anira !Hao!nâsi †gae†guis !aroma tsi 5 (koro) anide !nari-aihe ge khoe-e.
- (f) Hoaraga dlsadi !hapixase ge hohedi ge !nonadisi sisen tsêdl khao!gâ !arulî sîsenxa tama hâ.
- (g) !Hapixa khoe-i ga !gui-aihe i ge !kharaba dī!oa!oa tama i, o-i ge !nona!nâguse !gui-aihe i ge ûitsama xûna nî matare-oa.

6.3.11 Nau xûn hoan !nân ge sao ra dTisa-aide !hûhâsib xa ge †an!gâhe tsî !khara !gaugu ge !hao!nâsi !nâu!gâ !khaib tamas ka io !Hao!nâsi !Naetigu †Gae†guis ra mû khami nî !gui-aihe:

- (a) !Gôarona †hanu tamase ûi-ûs
- (b) !Gûna †hanu tamase ûi-ûs
- (c) Kaira khoena †hanu tamase ûi-ûs
- (d) !Game-ao-e †hanu tamase ûi-ûs
- (e) HIV/AIDS !aeba uha khoe-e †haras
- (f) !Gûn tsî !naosan !oa-ai !gôaose ûis
- (g) Gaob/s !oagu !gôaose tanisens
- (h) !Nî Gao-i, Dana khoe-i tamas ka io !hub President-i !oa-ai !gôaose tanisens
- (i) †Kham khoen ga kaikhoen !oa-ai !goaose taniseno
- (j) Sîsen-aona †hanu tamase ûi-ûs
- (k) !Gooana †hanu tamase ûi-ûs
- (l) !Gameb di mîmaisa khôas
- (m) !Gauose !huhasib !na tanisens
- (n) Sa ôanats ga !nama tama i
- (o) !Aokhoe sorosise !goe-ûs
- (p) !Goeb tsi !gauo!na !hoa !gaub
- (q) Sa !game omsa xû !khoe tsî !nî khoes!khoeb !kha sî uî!haos
- (r) !Gaidîb

## 7. Khoen tsî laokhoen xa hâ #hanub

### 7.1 Tanilkhāsib

- 7.1.1 |Gamdisil|guiā kurin xa !naga hâ khoe-i, xawe disikoro|a kurin xa |gapise h\ a i ge |goa-i ase nî !gawalihe, tsî laupexa |khāsi-e ūhâ tama xū-e dībasens dī-e.  
 7.1.2 Disikoro|ā kurigu !naga hâ khoe-i ge |gôaro-i ase nî !gawalihe, tsi |nāāmaga xū-e dīs di |khasi-e ūhâ tama hâ.

### 7.2 !Gameb

- 7.2.1 Aorekhoekha tamas ka io tarekhoera ge !gamegusa mā-amhe tama hâ. Tsî |na-amagas ge |khāti nē!nôa ūlhaosa a #khāsa.  
 7.2.2 |Aokhoen |khā |aoba xū hân ge !gamesa mā-amhe tama hâ.  
 7.2.3 Aob ge |ō ge taras di !oa!ū hâ |aokhoe-eb nî !gamesa mā-amhe tama hâ.  
 7.2.4 Taras ge |o ge aob di !oa!ū ha |aokhoenas nî!gamesa mā-amhe tama hâ.  
 7.2.5 |Aokhoen ge |khā aboxab |gam|lī surib diba xūn ga a hâ, o !gamesa mā-amhe tide.

### 7.3 !Gamesa mā-amhes

- 7.3.1 Khoeb ge |gûn di mā-ams ose !game tide.  
 7.3.2 Khoes ge |gûn tsî hoalkhakha xu |naosan di mā-ams ose !game tide.  
 7.3.3 !Game nîse |khoeb tamas ka io khoes tsira di |gui-i di ma-ams oseb ge !gameba dihe tide.  
 7.3.4 Khoe-i hîa !nas 7.3.1 gu !nas 7.3.3 kōse mīhe hâ |gaub di mā-ams ose ra !game-i ge !nani gomadi |kharaba a |gui-aihe |khā.

### 7.4 !Game#gans tsî |lâudīb

- 7.4.1 !Game#gans tsî |Âudīb tsin ge khoes di |în di omsa xū nî dīhe, nēs ga |nÂuguhe tsî |nî !khai-e xu dihe tama io.  
 7.4.2 #Hanuses ga !game#gansa !gûlnâ os ge !game nîse i khoesa, !game nîse i khoeb di khoena ra |khaelnâhe.  
 7.4.3 !Game nîse |khoes di khoen ge khoeb di khoena #hapan ra |aokhoe-i, khoeb |khāba xū hâ-e !game#gans !nâ-i nî hâsa a #gaolkhā |khā.  
 7.4.4 !Game#gans tsî |lâudīb tsîn ge ne #hanumas tsi |Khomanin |naetib !oa ni dihe:  
 (a) |Khomanî khoeb ga |Khomani khoesa !gameo, tamas kaîo.  
 (b) |Khomanî khoes ga |khara Damara !hao!nâsi khoeb |kha !gameo.  
 7.4.5 !Game#gans tsî |laudib ge nē !hao!nasi #hanumās tsî |Khomanin !hao!nâsi |naetib !oa nî dīhe, xawe |khāti nau !hao!nâsi |naetigu tsîn !oa nî dīhe hânab ga Khomanî khoeba |khara !hao!nâsi |hūhāsib di khoesa !game #gao !nūbai.



- 7.4.6 !Gameb di !lāxasib ge !Hao!nāsi †Gae†guis di !lani-i xa ni !hao!nahe, tsi-i ge li-e neti-i !gameba !Hao!nasi †Gae†guis tawa nī si !nuri.
- 7.4.7 Nes khao!gās ge !Hao!nāsi †Gae†guisa !Khomani !hao!nāsi !!gameb †khaniba !game-aora ni xoa†uiba.

## 7.5 !Gameb xūn

- 7.5.1 !Game ra khoes di îra ge Aba Gomas, †oa†amsa !khasiba ūhāsa a †gaolkhā !khā tamasa ka io !nani †oa†amsa piridi tamasa ka io gūde.
- 7.5.2 Aba Gomas ge !gameb ai!â tamasa ka io khao!gâ nīra mālānāhe, xawe !game khoes di ira !nāugus !kha !gui tsi mīlguisa laeb ai ni malnahe.
- 7.5.3 Aba Gomas ge !lis di !lamaxu !khasib !oas tsina maris !kha a !kho!khunihe !kha.
- 7.5.4 Nēsib ga !game nīse ī khoeba !khara !hao!nāsi !naetib di, tsī Labolasa mās tamasa ka io ma tama i, xawen ge !game nīse ī khoes di !aokhoena !nā khoeba Aba Gomasa nī †gaolkhā.
- 7.5.5 !Game nīse i khoeb di khoen ge !oasa Labolasa nēsis ga khoesa !khara !hao!nāsi !naetib di xawe, !līn ra †gaolkhā khami nīra mā.
- 7.5.6 Noxoba ge !game tama hā i khoes ge !oasa !gaiba ūhā Aba Gomasa †gaolkhās diba.
- 7.5.7 !Game nīse ī khoeb tsī !līb di !aokhoen tsin ge !gui-aisa !game nīse ī khoesa !khunu†nūidasa !lamabasa. Ne !khunu†nuidas ge !game†gans ra toa tses, khoes ra khoeb di khoen ai !khaelnā-aihes ai nī mahē.

## 7.6 Rāi†nūis

- 7.6.1 !Game†gans khao!gâ !khunu†nuidasa !game nīse ī khoesa !khaelnās ge khoera di !gameb !aroma malnaguhesa ra !gau†ui.
- 7.6.2 Rāi†nūis tsēs ai i ge nī mīlguihe mā laeb nī !gameba hāsa.
- 7.6.3 Rāi†nūis tsēs ais ga !gameb nī hā tsēsa mīlguihe tama ī, os ge !nāti-i rāi†nūisa !aerob dis !guisa ī. !Gameb tsēs ge !nāu!āxa laeb !nā nīra dīhe.

## 7.7 !Gameb di !gorahes

- 7.7.1 !Game-aob di khoen ga tarasa !līs îra di oms tamasa ka io !nāuguhe hā !khais tawa sī a !khaelnā, os ge !gameb di !gorasa ra hā. Tarasa ga !nā !gaub ai !khaelnāhe tama i, os ge !game-aob di !aokhoena !kharaba a !gui-aihe !khā.
- 7.7.2 Tarasa di khoen ge nē †hanuba a sīsenū !khā.
- 7.7.3 Aba Gomas tsī !gamerāis tsira ge mati !gui-i ka māsī-e ī, xawe !khaelnā-oahe tama ha.
- 7.7.4 !Gameb di !goras tsēs ain ge !game-aora di xūna !guitikōse nīra !gorahe.
- 7.7.5 !Game-a-o-i hā !gorasa ra !aroma i ge nē ai†hanuba nī †oa!nā.
- 7.7.6 Tarasa ge !gōan di mū!gās !ereamsa nī māhe, hāna i ga !khara !gaub a !nāuguhe tama io.

## 7.8 !Kharu!kharus †garob

Khoe-i ga testamensa ūhâ tamase tamas ka io ūhâse lō, on ge !hao!nâsi †gae†gui-aona lnā khoe-i di xūn †ama ra mû!gâ.

## 7.9 !Goan

- 7.9.1 !Hao!nâsi lhûhâsib ge lgôa-i isa, !uru māba-aos tsî mû!gâ-aos ase ra !gawalî.  
 7.9.2 !Gûn ge lgôa-i nî lgamdisilguilā kurixas kōse lnāti-i lgôa-i di digu loasa !ereamsa ūhâ.  
 7.9.3 Hoaraga lgûn gera †gao!khâhe lgôanan nî skola xoasa.  
 7.9.4 !Gôa-i di kō!âs, !gâu!nâs tsî kaikais ge lgûn di †guro !eream, xawen ge !khâti !naosan, dākaigulda†khamgu tsi ma†khamdi!makaidi tsina !ereamsa ūhâ.  
 7.9.5 !Hao!nâsi !Naetib †Gae†guis ge nē khoen hoana †hanuse ûi-ûhe tama lgôan !aroma !ereamsa nî †gao!khâ !nâs 7.9.4 !nâ mîhe hâ khami.  
 7.9.6 !Hao!nâsi !Naetib †gae†guis ge lgoa-e †ûba !khâl!khas !aroma †nausa ra †an!gâ, xawe lgoa-e di †hanuba lgaris !kha khoasa maam tama ha.

## 8. Tarekhoedi

- 8.1 !Hao!nâsi †Gae†guis ge tarekhoede !Khomanin lhûhâsib !nâ kaise †hâ†hâsase ra !gawalî.  
 8.2 !îdi ge mâ!noa †khâba dib hoaba xū nî !khaebahe. !Hao!nâsi †Gae†guis ge nē lgaraba !khîhel!khosase nî sîsen kai.

## 9. HIV/AIDS

- 9.1 HIV/AIDS ge lhûhâsib !nâ †gui †aî†hansende ra !aroma tsi lnāāmagas ge !Hao!nâsi †Gae†guisa ne !gomsiba !hoa!gaos !kha ni ai!gû.  
 9.2 Nē laeba ūhâ khoen ge !lin di !aokhoen xa ni !ae!kho tsi †khâ!nâhe; †gurosa !lin di †unûmâ !aokhoen xa tsî !gam!lisa, nau !aokhoen xa.  
 9.3 !Hao!nâsi †Gae†guis ge !lin hoana !ae hâ khoe-i di †harahe tsî †hanuse uî-ûhe tamas !aroma !ereamxase nî ūhâ.

## 10. !Aokhoen

- 10.1 Aorekhoeb ge oms di danab ase ra !gawalîhe.  
 10.2 !lib ge †gurosa !aokhoen āba kō!gas tsî !khaubas, lgôan di kaikais tsî !gau!nâhes di !ereamsa ūhâ.  
 10.3 !Hao!nâsi †Gae†guis ge !aokhoen di ûiba †gao†gao!nâs tsi !khaubas tsîna nî ditsâ.

## 11. !Hao!nâsi !aedi-aon

- 11.1 !An!gā tsî da ge nētsēkam !urusib di saogub tsî sîsenlāsigu tsîna ra !gao!gao!nâ.
- 11.2 Hailaedi-aon, !Guri-aon, !Gaidi-aon tsî !Khū-aon tsin ge !Urusib di Ministris xan ga mā-amhe tsî !Khomanîin di Gaob/s xan ga ma-am !khanisa maheo !gui lin di !gau!gaus sisenna a dī!khā.
- 11.3 !Hao!nâsi !aedi-aon ge !gaos di sîsenna di tide, !gao-ūxūn ga !hanu māsib !nâ hâ tama io.
- 11.4 !în ge !aedi !aroma tātēs tsina aorekhoe tamas ka io tarekhoe sorode sîsenū tide.
- 11.5 !Khātin ge mā-amhe tama hâ tarekhoe sorosa !gaosa.

## 12. !G!gōs !nâ !hao tama is

- 12.1 Mâ khoe-i hoa-i ge a !norasa !î-i ra !gao !g!gō!nans tamas ka io sîseni !nans !nâ !anisa.
- 12.2 Khoe-i hîa !g!gōs !nâ-ū sîsen!harosa ūhâ-i ge Gaose, Dana !Hao!nâsi !Gae!gui-aose, !Hao!nâsi !Gae!gui-aose, tamas ka io !Khomanîin di xoa-aoses tsina a !hûihe !loa.
- 12.3 Mâ khoe-i hoa-i !Khomanîin !hao!nâsi !Gae!guis !nâ hâ i ge !gi!gōse sarana !Hûhāsib omkaisensa ra tsâlkhā !nûde !nâ anasa mā-amh tide.
- 12.4 Khoe-i hîa !Khomanîin Gaose ga !an!gâhe-i ge !naga xoamāisa !ās (1) (a) tamas ka io (3) !Hao!nâsi !Naetigu !Hanumās, Act no. 25 of 2000 dis !oa mîsen hāse ra !gawalîhe.
- 12.5 Khoe-i hîa !g!gōsi !haros !aroma !hûihe tsî !khō!oa-i ge !Hao!nâsi !Naetigu !Hanumās, Act no.25 of 2000 !oa nî !kho!khunihe.

## 13. Aorekhoen/Tarekhoen

- 13.1 Aorekhoeb ge oms di danab ase ra !gawalîhe tsî !lib !aokhoena kō!gās di !reamsa ūhâ.
- 13.2 Aorekhoeb tsî tarekhoes tsîn ge !g!gōs, !huhasib, !hao!âi tsî marisi !harigu hoagu ai !guitikō ai!hanuba nî ūhâ tsi !gae!guis !harib !aromâ !gaumâhe tsi !nûdi !nâ nî !hao.

## 14. Kaikhoen !nans

- 14.1 Kaikhoen !nans ge !nanidisi kurina xū !gapise hâ kurina ūhâ khoena xū a !amlaresa.
- 14.2 !în ge !hao!nâsi !naetigu tsî !garagu !Hao!nâsi !Naetigu !Gae!guis diga !gao!gao!nâs !aroma.
- 14.3 !în ge !hûhāsib di !gan!gāsa !hanub di !reamsa ūhâ.
- 14.4 Kaikhoen di !nans ge !khāti Gaob/s tsî !khāsiba ūhâ kaikhoen !namipe hâ mîsagun !ama !reamsa ūhâ.

## 15. †Kham khoen !Nans

- 15.1 lîn ge saora !ereamde uha:  
 (a) lîn ge !hao!nâsi lāxasiga ra †gao†gao !nâ  
 (b) lîn ge !hao!nâsi lnaetigu tsî lgaragu tsina lhûhâsib !nâ ra †gao†gao !nâ  
 15.2 lîn ge !hao!nâsi lāxasiga ai†homisa ra !khondana !nâb 15.1 na mîsa khami.

## 16. !Howadi

!Garaga !nâgu !Haodi di\Howades ge !Khomanîn !Hûhâsiba nî!lgao !gâ.

## 17. †Hanusi mā-ams di †khanin

- 17.1 Saora †hanusi mā-ams di †khanin ge !Khomanî !!Hao!nâsi !Awemā Bēros tamas ga i-o, !hao!nâsi †gae†guis xa !kharib !nâs tsî lan!guib !nâ lgau mâi he hâ khoe -i xa nî xoa †uihe:  
 (a) Ūitsama †gariba (barden) doe-ūs  
 (b) !Aen laeres mā-ams  
 (c) !Hub luib sisen †amhes mā-ams  
 (d) !Aub !gurun !aus tamas ka -io lamaxūs !aroma harehes mā-ams, tsî  
 (e) †Haruguba tsoa tsoas mā-ams.  
 17.2 Nēti ī xūn †gan amsensa i †hanub !khaba xū nî lawo-lawos ai !â i †ganamsensa !gawi gara mîhe !gâsan xa nî xoa †uihe.

## 18. Ganube !nae tama !gôa-e !gams

- 18.1 !Khomanîlaes ge mā !haros !guis ais ga !gûsa !gam !khâ hâs !guis ge xawe nēti ī !gôae !gamsa mā-am tama hâ.  
 18.2 Hâna i ga †urusib māsigu xa !Aedī ao-i di mā-ams tsî !khō !gâs !kha dihe tama i-o.  
 18.3 Nē !khais ga !nurihe, o- i ge !hawixase ra hōhe khoe-e !gui (1) gomas !hāraba nî !gui-aihe. Nēti ī khoe-i ge loasa !gora !gâsa nî mîhe tsî !hawixa i nîs karao nê !kharab !haōsi †gaesa !oara !guba nî !kharahē.

## 19. !Haosi !hu†hanuba !gôa-!gâs.

- 19.1 !Guis khama ī !hū !î-ī mâ !hūb !guib di- i kas ga xawe i ge nē !hū †hanub xa !gawi tama hâ tsî !lîba !gawise nî !gaba li.  
 19.2 !Khomanîn di †hanub ge nî !Gôa-e tsîni sîsen†anhe.

## 20. Sorosi !âna ra †oa !nâ khoena mati nî mā-dawa amhe

- 20.1 Khoe i ga nau !gâsa-e nē tamas ka i-o mâ !gau-i !gui-i ai a tsûtsu tsî †khoa dī tsî i ga nēs xa !aromahe hâse !nâ !gâsa-e sao ra sorosi ! âna nî†oa!nâs ga tsî nēti-ī

khoe-e !hawixase !nâu-!gâ !khaib xa nî hō-hes kara-o, o- i ge saorase nî !kharahē: Mûs, samdi, am!gauxha,†guis,†Ais, †gaes, !Ôab, !Nûb – Haka (4) gomadi tamas ga i-o, !khāsib maris.

- 20.2 !Khāgus !gams ose hās, †Gaes - !am (2) goman tamas ka-i-o, !khāsib maris.
- 20.3 !Gûn, !Gûb, !Omgu tsî !Khunu - 1 gomas tamas ka i-o, !khāsib maris.
- 20.4 !Gaidîb tsî !gû !are ra xûn ge !Khomani!aes xa mā-am he tsî dihe tite.
- 20.5 !Kharab nen !kha ra !gû !aeb ge !am (2) gomara !gora!gâ!khaiba mataresa.

## 21. !An!Guib

- 21.1 !Khomani !gûra !gui-i tamas ka i-o !în di !naesaben tsî surib nē !hûb Namibiab di !an †gāsabesi sa tani hâ-i, ge !Khomani !kharib tamas ka-io māsā !hû! âs !nâ !ansa māsamsa.
- 21.2 !Auka!hu !î-i ge mā-amsa tama hâ, hâna i ga ûihaba !ans mā-amsa Namibiab †hanub xa mā-amhe tama nî !s garao.
- 21.3 !Hûde !khā!nābagus ge !Hao!nâsi !Awemā !nans Gaob dis tsi Gaob tsin xa !gui ra dîhe.

## 22. !Hûhāsib omkhāisens projekdi

- 22.1 Khoe-I hîa ga !Hûhāsib omkhaisens projekde tsoatsoa †gao-i, ge !Khomani †gae†guisa nî mâi-ai ! â tsî nî !hoa †harugu.
- 22.2 Neti-I projekti ge Gaob xa !guini mā-amhe.
- 22.3 !Kharab ge !gui (1) gomas tamas ka-io N\$1,000.

## 23. !Khâ kōrope Matare di (Taxti)

- 23.1 Om-aris matares - N\$10.
- 23.2 Kai & †Khari†Harugub - N\$30.
- 23.3 Matare tamas ka io-os ge ne marisa nî !Aro aisen.

## 24. Xui-e †kham !goan !na

- 24.1 Disi !khaisa !A gurin !naga ha khoe-i ge xûl-e sîhe tamas ka io !khari !gaudi !nâ †gās tsina mā-amhe tide.
- 24.2 !Kharab ge N\$100 !haosi †gaes !nâ nî mā tare †gāhe.

## 25. Surude aigus

- 25.1 Khoe-I nau khoe-I xa surutehe hâ-I tamas ka i-o †khôadî he I ge, aitsama !kharaba nau khoe-e !gui ais tamas ka i-o †hanuba !î-i di !omgu !nâ u tide.
- 25.2 Nēti-î khoe-i ge surute hâ khoe-i tamas ga i-o nē tamas ka i-o nau !kharabahe !khā !tu †am-e go dî-ai i khoe-e !hao!nâsi !gora !gâ !khaib !oa nî ûhâ.

- 25.3 lî !nabe i ga !naugu he !naugus tsin ge !hao!nâsi |gora!gâ!khaib tawa nî !khî ūhe tsî  
!gui ai !nâhe tsî nēs !kha !lawolawo he tsî nî !am-lamhe.

## 26. !Umis

- 26.1 Khoe-i ga !gameb !auga 6 kurin xa !nāsase nî hâ !haos gara o,os ge !Khomanin  
‡ūsigu !naga a lumi !khā.  
26.2 Xoa !gui-i !Umis di-i nî !khais karao,os ge !Khomanin !hao!nâsi |gora!na!khaiba  
mî !guiba a ū !khā.  
26.3 !Gameb !auga hâ !gōan tsin ge !guiti kō !reamxasib !game !gōan ūhaba ūhā.

## 27. Abagomas

Khoe-i ga nau khoen ôasa !game tsî Abagomasa matare tama io,o-i ge nē khoe-e |gora!gas  
khao!ga !nona gomade nî matare, !gui gomas !Hao!nâsi |gora!ga!khaib !oa nî māhese.

## 28. !Hū-!nasi !umis

- 28.1 Hâna i ga !game tamas ka-i o !game hâ khoe-e !os kara-o, tsî i nē khoe-e lî-i !hūsa  
!gōa-i, !ao-khoe-i ai xoa hâ is karao, o-i ge !ō!gauhe go aob tamas ka- io tarasa nē  
!hū !kasa !nāti-ī ‡gaimâisabe e lumi nîse nî !goraba.  
28.2 lî- i !o !gauhe go- i tsin ge nēti-i !hus ai nî !an hâ hō !khā tsî mî xū-e ūhā.

## 29. Gāhâse ga hōhe barden (!goan)

- 29.1 Nēti-ī barden ge nî (2) !gam kurin !gaiba dana-khoe-i tamas ka i-o !gaumâihe hâ  
khoe-I !reams !gaga nî !khō!garahe, ‡an ‡uihe i nis kōse.  
29.2 ‡An ‡uihe tama i nî is kara, o-i ge !hao!nâsi |gora !ga!khaiba nî !khael!nâhe.  
29.3 Tsî !amaxūhe tsî marisa !hao!nâsi ‡gaes !nâ nî ‡gāhe.

## 30. !Naetigu tsî !Haos ‡Goms

- 30.1 Goma i ge !haos di matare !gaub ta mî !gui aisa. Nausan ge !ui!nū !goan tsina !gui  
gomas ai !nonase matarehe !khā. Maris tsin a !kho !oahesa, xawe !haos gomas ai  
ra !lawolawo !khāsib !nâ nî matarehe.  
30.2 !Haosi ‡ūsigu tsî !naetigu ge nî hoan xa !gawi !gōahe tsî sora he tide. Nēs ge !gui  
aisa matare di, !kharagu tsî tanisen di tsina !khō‡gā hâ.

## 31. !Hao!nâsi !Gora !ga !Gaib

- 31.1 Hoaraga |gora !ga di ge Hoa khoen !hawi ‡nui !kha he ra khoe-I. !nuri !ga ao-i, mu  
!ga ao-I tamas ga io ‡hanusi ‡nu !khaeba ao-i ha hia nidi he khoe-i hia ga ‡kha ne

- !gora-!ga !khaib ai !na !haisa, i ge !haosi !garagu !naga ni !khara he tsi dā-!harode u-uhe.
- 31.2 !gora!ga-aolb gelyaiba uha !hao!nâsi !gora!ga !gaiba !nu !gaeba sa.
- 31.3 Mâ khoei hoa-i hia !gôra!gâs !kha!khi tama (!kharab) !kha-i ge !khawa Gaob/s !oa !gan!gâsa adibasen !khā.
- 31.4 Mâ khoei hoa-i hia Gaob/s !kharab !kha!khi tama – Ige !khawa !hanub di !aora!gâs !oa !gan!gâs a dibasen !khā.
- 31.5 Ma !gôra!gâs hoas ge hoaraga khoen, !âpio khoe-I, !Hapixa khoe-I, tsi !nû!khaeba-aon ha o lui ra tsoatsoa.
- 31.6 Mâ khoeie hoa-i hia !gôra!gâs !hao!nâs di !gui!tamsa di!loaloasa nî !khas kara-i ge !û!a-ms ainî !kharahe !lîn ra !Hû!arebe !go ra!gâ!khaib di !hanumâsa!û!am xui-ao.
- 31.7 !Gora !ga !khaib ge neti-î khoe-e disi haka (14) tsemi li-i !gora!gâs ai! â !khau !uisa nî siba tsî ho i go !khaisa nî lawo-lawo.
- 31.8 Mû-!gâ ao-i hia amaba !goa tama i ge !gam (2) gomara nî !kharahe. (!Haosi!gaes.)

## 32. Barden (!goan) !an-!ui !gaugu tsi Dao luris !gau-!gaus

- 32.1 Hoaraga !aes !gari aon ge !hanusise !an ams dao luris disa ni di.
- 32.2 Hoaraga !gari-aon ge !gôakhâib !gaekhâib !khaniba nî ûhâ.
- 32.3 !Goan ge !gaesaos mû-mûsa se mâ !ao khoen dise a !ansas !kha nî !gae di ai sao he tsî !hanusise !an !gasa dao luris !kha dao-e (gai-!nu !goan).
- 32.4 Nes ge kaise !gasase nî dî he.
- 32.5 Neti-i saodi tsî dao luridi tsîn ge !hao!nâsi !gae-!gui ao-i tamas ka io !lîn xa !gau maihe ha khoen dawa ni !nurihe tsi ne !ao-khoen di i ase ni !nuri maihe.

## 33. !Khari !harugu !khaigu tsî !amaxûs

- 33.1 !Khomani !aes gera !gom, mâ khoe-i hoa-i nî sîsensa.
- 33.2 !Goaga disi !lî kamab ai!na tsi !oes disi !lî kamab khao!gâ i ge !khari !haruguhe tite.
- 33.3 !Na !huru tsî !khari !harugu !audi ge !uia disi li kama (10) ni !gan-amhe.
- 33.4 !Gôan ge !khari-e !lama !gû gâihe tite.

## 34. !Abun tsî Kôan sîsen-ûs

- 34.1 !Abun tsî Kôan tsin ge !Aus tsî !hâs tsin !aroma !gui nî sîsen ûhe.
- 34.2 Khoe-i ge !abun tsî goan tsina !luhasib !khain ai !noa tamas ga-io, !khagus !aroma sîsen-û tide.
- 34.3 Khoe-i nau-e ka khoas tsî !abus !kha !gari-i ge !gora!gâhe tsi N\$200-00 sa nî !khara he.
- 34.4 Khoe-i ge !gora!ga!khaib tawa, khoas tamas ka i-o !abus !kha sîsensa mā-amhe tama hâ, !kharab ge N\$200.

### 35. **Ûitsama Bardena !naobēs tamas ka io †ās amsi !naobēs**

- 35.1 |Guis khama ī |goa-I tsin ge !hao!nâsi †gae†guis †ans ose !naobēhe tide.  
 35.2 |Hao!nâsi †gae†guis tâmas ka io mā-amsa khoe-i ge mā-ams †khanisa nî xoa †ui.  
 35.3 |Hao!nâsi |gaulgaus ge nēti-Ī †khanis ai nî |gaihe tsî mā-amsa !gāsa-i xa xoa !gaohe.  
 35.4 |Nē †khanis ge hu(7) tsēdi |guite a mā-amsa, tsi nē †khanis ge |gui !nas !gus |guis !aroma a sîsen xa.  
 35.5 |goa-I ga !naobēhe tama io, oi ge !hao!nâsi †gae†guis mā-ams †khanisa nî xoa †uihe.l.  
 35.6 |Goa-e |gaubas !aroma I xe, |Guis khama i (barde-i) |goa-i tsina !garob !nā †ahe tide, †gari-aon ge |goa-e khoen mulgae nî †ā.  
 35.7 |Khoe-i ga (barde-e) |goa-e †gau, oi ge †gaemai tsî †gae saos tsî daos nē |goa-i ai hâsa nî †an†ui tsî |hon-khoe-e nî †an†an in |lîna lhû |gui.  
 35.8 |Khoe-i ga nau khoe-i (barde-e) |goa-e ra !nari hîa !gamhe, tsûtsûhe, os ge !hao!nâsi †gae†guisa mādawa am-e |nā khoe-i !aroma mî |gui tite. Khoe-I ge nau khoe-I di !haras !nā ma-ams ose †gâ tide.  
 35.9 |Khoe-i ga mā-ams ose nau khoe-i !haras !nā gara †gâ tsî //nā khoe-I gara tsû tamas kai-o !amhe ob ge /hon khoeba //nā khoe-e !ereamba tide.

### 36. **!Garo |Ae †Huwib**

Khoe-I hia |Ae †Huwib mâ |gau I |gui i as !aroma I ge khoru (5) gomade nî |kharahē. |gam (2) gomara ge Gaob nî mahe tsî !nona (3) gomade !haosi †gaes |kha.

### 37. **!Goa o !nasib**

- 37.1 |Mâ Dana-dana khoee-i, Dana-khoe-I hîa ga Gao-e sora I tamas ka io †gae†gui ao-I hia ga nau †gae†gui ao-e sora I ge, |natimis ai †gae†guisa xû nî ū |nahe.  
 37.2 |Hûhâsib hîa ga Gaob tamas ka io †gae†gui ao-e sora I ge |gui (1) gomasa nî |kharahē. Ne gomas ge Gaoba ra mahe.

### 38. **!Hû!hoas**

- 38.1 |Gaob/s ge |Khomanîn di !hû!âs di !ereamsa ūhâ.  
 38.2 |Gaob/s ge |Apema!nans di †ans !naga !hû! âsa xû khoe-i hîa mā-amsa ūhâ-e ra mā.  
 38.3 |Gaob/s ge |lîb !ereams !nâ hâ !hû!âsa xû khoe-e !gû kai |khâ.  
 38.4 |Khoe-i ga |lî-i māhe tama !hû!âs ai |hapixase hōhe, o-i ge |lî-e |kharaba anu hâ tsî |nātimîsi !haetuihe |khâ.



### **39. !Kharalkharas tsî xoalaros !Khomanîn !Hao!nâsi †Hanumas dis**

!Hao!nâsi †hanumão ka !kharalkharahe tamas ka io xoalarohe, oblos ge Gaob!Gaosa !nāti-ī !haos !Khomanîn disa ai†nû-aose nî †gae†gui.

### **40. †Gai†ams tsî sisentsoatsoas nē !hao!nâsi †hanumās dis**

Nē †hanumās ge !Khomanîn !Hao!nâsi !Hûhâsib †Hanumās ase nî †ansa tsî 20s !Hoa†khaib dis 2002 !nâ nî sîsentsoatsoa.

Nētsēs 20s !Hoa†khaib dis 2002 ai *Bēros tawa !Ae!gams !nâ Gaob, !naga !naga* Gaos tsî !Apema!nāns di Ai†nû-aob tsin xa ge *xoa!gaohe*.<sup>4</sup>

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4      !Khomanîn de !naga !naga Gaos Juliane Gawa-!Nawas ge 2012s sa †hanu tses ase ga xoa!gui.



## THE LAWS OF THE IKHOMANÎN

## EDITOR'S NOTE

As this book was about to go to the printer, the Human Rights and Documentation Centre (HRDC) of the University of Namibia was approached by some members of the |Khomanin community who stated their wish that we not publish the laws of the |Khomanin. A letter was addressed to the HRDC, stating that it was written on behalf of the writers (who identified themselves later as a “Technical Committee”), and not for the |Khomanin Traditional Authority. The complaint raised by the group was that “[they] as the community did not have an opportunity to discuss or give input, neither did ... [they] see the final work on the draft for the |Khomanin customary law”. The group of concerned members of the |Khomanin community was subsequently received by the HRDC, during which meeting they repeated their complaint.

The HRDC and the Editor of this publication decided after considering the said complaints that they would proceed with publication of the book, but have this Editor’s Note for the information of the user of this publication. As stated in the Introduction to this Volume, and the Editor’s General Note on page viii, it was not the task of the editorial team of this publication to verify the internal process that led to the self-stating of customary law by the various communities. For the editorial team, it was important to be given the duly stamped certificate of consent for publication by the Traditional Authority. It was not shown to the HRDC and the editorial team that the consent received from the |Khomanin Traditional Authority under the late supreme leader of the |Khomanin community was not valid.

This leaves it to the community, as the case may be, to enter into a process of amending or changing the laws as they are stated in this publication, in accordance with the rules of the respective communities and the provisions of the Traditional Authorities Act.

# **1. Traditional emblems**

## **1.1 The flag**

- 1.1.1 The flag of the !Khomanîṇ traditional community shall be green and white.
- 1.1.2 The white shall symbolise peace and the green future expectations.

## **1.2 The crown**

- 1.2.1 The crown worn by the King/Queen shall be a lionskin hat which shall have a seashell with a diamond on it.
- 1.2.2 The crown shall be a symbol of authority.

## **1.3 The royal staff (rod)**

- 1.3.1 The King/Queen shall keep the royal staff in his/her custody.
- 1.3.2 The staff shall be a symbol of authority.

## **1.4 The royal gown**

- 1.4.1 The King/Queen shall wear a royal gown.
- 1.4.2 The King/Queen shall wear a maroon gown for !Khomanîṇ festivities, and a white gown for festivities involving other Traditional Authorities.
- 1.4.3 The gown shall be a symbol of authority.

## **1.5 The traditional song**

- 1.5.1 The anthem of the !Khomanîṇ is *Ae Sida !Khomase* (“Our Khomas”).

# **2. Community meetings and festivals**

- 2.1 There shall be general community meetings, convened by the Traditional Authority as necessary.
- 2.2 The purpose of such meetings shall be to consult the community, inform them about Traditional Authority activities or programmes, or pass crucial binding resolutions.
- 2.3 There shall be a !Khomanîṇ festival once a year, organised by the Traditional Authority.

# **3. The territory**

- 3.1 The traditional territories of the !Khomanîṇ shall be the Khomas Hochland, which is the area habitually inhabited by our ancestors, as well as Arovlei, Katutura, Gurigaob and !Naoaspoort.
- 3.2 The main seat of the !Khomanîṇ Traditional Authority shall be Arovlei.

## **4. The Traditional Authority**

### **4.1 Introduction**

- 4.1.1 The lKhomanin Traditional Authority shall consist of the King/Queen, Senior Traditional Councillors (*Dana Khoen*), Traditional Councillors (*lAbema Aon*), and representatives of other organs such as Customary Courts, the Women's Council, the Council of Elders, and the Youth Council.
- 4.1.2 The King's/Queen's Council shall comprise the King/Queen and Senior Traditional Councillors.
- 4.1.3 The King/Queen shall appoint the members of the Traditional Authority.
- 4.1.4 The King/Queen shall have the power to dismiss, suspend or replace any member of the Traditional Authority or to dissolve such Traditional Authority.

### **4.2 The King/Queen**

- 4.2.1 The King/Queen shall be the supreme leader of the lKhomanin traditional community.
- 4.2.2 Besides the status, privileges and functions provided for the King/Queen by this law, s/he shall have additional status, privileges and functions by virtue of his/her office as King/Queen, and according to the traditional laws and customs of the lKhomanin.
- 4.2.3 The King/Queen shall be obliged to perform his/her duties and functions in terms of the rights and customs accorded to the King/Queen.

#### **4.2.4 Succession**

- (a) The King/Queen shall be succeeded through the royal bloodline from the royal house.
- (b) The King/Queen shall appoint his/her own successor.
- (c) The successor may be appointed at any age, but shall only assume duty at the age of 21.
- (d) The King's/Queen's Council shall ceremoniously introduce the King's/Queen's successor to the community in the King's/Queen's presence.
- (e) The King/Queen shall not have the right to withdraw his/her successor once such successor has been introduced to the community.
- (f) The appointment of a successor may be withdrawn provided that s/he is no longer fit to succeed the King/Queen in terms of subsection (k) hereof.
- (g) If the successor is under age at the time of his/her appointment, the King/Queen shall appoint a regent in his/her place.
- (h) The regent shall serve as a mentor to the under-age successor, and shall act in the place of the King/Queen in the event the King/Queen leaves the position vacant.

- (i) The regent shall educate the King's/Queen's successor in tribal matters and shall hand over power to the successor when the successor turns 21 years old or as soon as possible thereafter.
- (j) The successor shall carry the title *Prince (Gao)* or *Princess (Goa)*, and the regent shall carry the title *Traditional Councillor (Danakhoeb/s)*.
- (k) The successor shall be declared unfit to succeed the King/Queen if –
  - (i) the King's/Queen's Council finds the successor abusing alcohol or drugs
  - (ii) the successor is convicted of any of the following crimes, whether by a customary or state court: murder, rape, robbery with aggravating circumstances, stock theft, or contempt of a King/Queen or King's/Queen's orders.
  - (iii) the successor marries a member of a non-Damara community, or if s/he marries a person whose mother tongue is not the !Nukhoe language.
  - (iv) the successor shows signs of an abnormal sexual orientation, or
  - (v) the successor is found to be suffering from poor mental health.

#### **4.2.5 Removal of the King/Queen**

- (a) The position of the King/Queen shall be for life.
- (b) The Traditional Authority shall, in consultation with the community and on the grounds of his/her poor mental health, remove the King/Queen from office.

### **4.3 Traditional Councillors**

#### **4.3.1 Senior Traditional Councillors**

- (a) Senior Traditional Councillors shall be appointed by the King/Queen in an advisory capacity.
- (b) Such Councillors shall automatically be members of the King's/Queen's Council.

#### **4.3.2 Traditional Councillors**

- (a) A Councillor will be appointed for each area in which a sufficient number of members of the !Khomanin traditional community reside.
- (b) Traditional Councillors shall perform the duties bestowed upon them at their respective areas of appointment.
- (c) A Traditional Councillor may also be appointed for purposes other than those stated in 4.3.2 (a) above.

#### **4.4 The Secretary**

4.4.1 The Secretary shall –

- (a) handle all official correspondence relating to the King/Queen and the King's/Queen's Council
- (b) perform the Traditional Authority's secretarial and clerical duties.
- (c) attend meetings of the Traditional Authority and the King's/Queen's Council, take appropriate minutes of such meetings, and ensure the safe filing and storage of such minutes after they have been certified as accurate at subsequent meetings.

#### **4.5 The Chairperson**

4.5.1 The King/Queen shall appoint or nominate a Chairperson from the Traditional Authority to chair meetings and to act in various capacities on his/her behalf.

### **5. Organisations within the Traditional Authority**

#### **5.1 The King's/Queen's Council**

- 5.1.1 The King's/Queen's Council shall consist of the Senior Traditional Councillors and the King/Queen.
- 5.1.2 The King's/Queen's Council shall control and supervise all Traditional Authority matters.
- 5.1.3 The King's/Queen's Council shall have the ultimate decision-making power in the Traditional Authority.
- 5.1.4 The King's/Queen's Council shall have the power to set aside, reverse, alter or uphold a penalty of the Community Court.

#### **5.2 The Council of Elders**

- 5.2.1 The Council of Elders shall consist of members over the age of 60 (sixty) years, who shall be elected by the traditional community.
- 5.2.2 The functions of the Council of Elders shall be to promote the culture, customs and norms of the Traditional Authority.
- 5.2.3 The Council of Elders shall have the right to make its own constitution and draw up policy documents or rules, provided they are in line with and subject to the customary law of the |Khomani.
- 5.2.4 The Council of Elders shall have the responsibility to address all matters relating to elders in the traditional community.



## **6. Judiciary**

### **6.1 The Community Court<sup>5</sup>**

- 6.1.1 The Community Court shall have the jurisdiction to hear and dispose of all customary law matters which it may hear and dispose of in terms of the Community Courts Act, specifically section 12.
- 6.1.2 Anyone affected by a Community Court decision shall have the right to appeal to the King's/Queen's Council for clemency.
- 6.1.3 The King's/Queen's Council shall have the right to grant or refuse clemency to those who apply for it.
- 6.1.4 The Community Court shall have no jurisdiction over the King/Queen.
- 6.1.5 The Community Court shall follow an inquisitorial system.
- 6.1.6 All persons shall have the right to be represented by another person of his/her choice.
- 6.1.7 The Traditional Authority shall be responsible for enforcing the Community Court's decisions and may call upon the state authorities for assistance in doing so.
- 6.1.8 Community Court decisions shall be enforceable through municipal courts.
- 6.1.9 Community Court decisions shall be enforceable against the family of the guilty party.

### **6.2 Composition of the Court**

- 6.2.1 The Community Court shall consist of assessors, justices, a clerk and messengers as it pleases the King/Queen to nominate or appoint them.

#### **6.2.2 Judges**

- (a) The King/Queen shall have the right to nominate judges in consultation with the King's/Queen's Council, and shall also have the right to dismiss such judges.
- (b) Judges shall preside over all matters falling within the jurisdiction of the Community Court
- (c) A Committee of Judges shall be established.
- (d) The Committee of Judges shall elect the Chief Judge, who shall chair such Committee.

### **6.3 Offences and penalties**

- 6.3.1 The Community Courts shall have the power to convict persons for the offences set out in 6.3.5 to 6.3.10 below and to impose the corresponding penalties.

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5 See also section 31 Additional Notes on the Community Court.

6.3.2 Such penalties shall also be enforceable against the family of the guilty party.

6.3.3 All fines plus 10% (ten per cent) of all compensation awards granted for offences against the community shall be payable to the Traditional Authority and shall be employed to further the Traditional Authority's business.

6.3.4 The Traditional Authority shall have the power to impose the 10% (ten per cent) penalty referred to in 6.3.3 above against the family of the guilty party as well.

#### **6.3.5 Defloration of an unmarried girl**

- (a) A Community Court shall have the power to convict a man who deflowers an unmarried girl and to fine him a maximum of five head of cattle or their equivalent market value.
- (b) The complaint shall be brought by the parents or the guardians of the girl, and the fine shall be payable to such parents or guardians.

#### **6.3.6 Impregnation of an unmarried girl**

- (a) A Community Court shall have the power to convict a man who impregnates an unmarried girl and to fine him 1 (one) head of cattle (a heifer) plus 1 (one) calf or 6 (six) goats or 6 (six) sheep, or their equivalent market value.
- (b) The complaint shall be brought by the parents or the guardians of the girl, and the fine shall be payable to such parents or guardians.

#### **6.3.7 Adultery**

- (a) Upon conviction, the third party shall be liable to a maximum fine of 4 (four) head of cattle or their equivalent monetary value.
- (b) The Community Court shall order compensation of 4 (four) head of cattle or their equivalent monetary value to be paid to the innocent spouse.
- (c) Such complaint shall be brought by the innocent spouse.

#### **6.3.8 Rape**

- (a) *Rape* shall be defined as, among other things, a sexual act by a man against a woman without the woman's consent.
- (b) The rapist shall be liable to a maximum fine of 12 (twelve) head of cattle or their monetary equivalent as compensation to the victim.

#### **6.3.9 Murder**

- (a) The guilty party shall be fined up to 25 (twenty-five) head of cattle or their monetary equivalent, to be delivered to the family of the deceased.
- (b) Such complaint shall be brought by the family of the deceased.
- (c) The applicable fine shall be payable to the dependants of the deceased.

### 6.3.10 Theft

- (a) The fine and penalties for cases involving theft and livestock shall be negotiated between the owner and the accused in the presence of lKhomanin Community Court judges.
- (b) The guilty party shall be ordered to compensate the victim by up to 3 (three) times the value of the property involved.
- (c) A written agreement stating the terms of the agreement, i.e. compensation or method of payment, shall be signed by both parties.
- (d) The Community Court shall advise the parties on the manner and schedule of implementation with respect to the agreement, and monitor the parties' compliance with it.
- (e) The Community Court shall impose a fine on the guilty party to compensate the owner of the stolen livestock in order to ensure restorative justice in such cases, as follows:
  - (i) 1 (one) goat stolen = 7 (seven) goats fined, of which 5 (five) are for the victim, and 2 (two) are for the Traditional Authority
  - (ii) 1 (one) sheep stolen = 7 (seven) sheep fined, of which 5 (five) are for the victim, and 2 (two) are for the Traditional Authority
  - (iii) 1 (one) head of cattle stolen = 5 (five) head of cattle fined, of which 3 (three) are for the victim, and 2 (two) are for the Traditional Authority.
  - (iv) 1 (one) donkey stolen = 3 (three) donkeys fined, of which 2 (two) are for the victim, and 1 (one) is for the Traditional Authority
  - (v) 1 (one) horse stolen = 3 (three) horses fined, of which 2 (two) are for the victim, and 1 (one) is for the Traditional Authority
  - (vi) 1 (one) chicken stolen = 7 (seven) chickens fined, of which 5 (five) are for the victim, and 2 (two) are for the Traditional Authority
- (f) All the fines imposed on the guilty person shall be payable within 30 (thirty) working days.
- (g) If the accused fails to pay the fine or to compensate the victim within the period stipulated in 6.3.10(f), the said accused shall be ordered to pay three times the initial fine imposed.

6.3.11 The following offences, among others, shall be recognised by the community, and penalties may be imposed and/or orders granted at the discretion of the Community Court or the Traditional Authority:

- (a) Neglect of children
- (b) Neglect of parents
- (c) Neglect of the elderly
- (d) Neglect of a spouse
- (e) Neglect of persons living with HIV and AIDS
- (f) Disrespect of parents or grandparents
- (g) Disrespect of the King/Queen

- (h) Disrespect of any other King/Queen, Chief or the President of the Republic of Namibia
- (i) Disrespect by the young towards the elderly
- (j) Ill-treatment of servants
- (k) Ill-treatment of children
- (l) Breaking off a betrothal
- (m) Public indecency
- (n) Failure to keep children under proper control and discipline
- (o) Incest
- (p) Blasphemy
- (q) Elopement
- (r) Sorcery

## **7. Law of persons and family**

### **7.1 Capacity**

- 7.1.1 Anyone under the age of 21 years but above the age of 15 shall be regarded as a minor, and shall have limited capacity to act.
- 7.1.2 Anyone aged 15 or younger shall be regarded as a child, and shall have no capacity to act.

### **7.2 Marriages**

- 7.2.1 Persons of the same sex shall be prohibited from having a relationship with, or from marrying, each other, that is, gay and lesbian relationships shall be prohibited.
- 7.2.2 Blood relations in the direct line shall be prohibited from marrying each other.
- 7.2.3 A man shall be prohibited from marrying his former or deceased wife's blood relations in the direct line.
- 7.2.4 A woman shall be prohibited from marrying her former or deceased husband's blood relations in the direct line.
- 7.2.5 Blood relations shall be prohibited from marrying each other if they have a common ancestor in the second degree, which entails that no cousins shall be permitted to marry each other.

### **7.3 Consent to marriage**

- 7.3.1 A man shall be prohibited from marrying without the consent of his parents.
- 7.3.2 A woman shall be prohibited from marrying without the consent of her parents and both her paternal or maternal grandparents.
- 7.3.3 No marriage may take place without the consent of both the bride-to-be and the groom-to-be.
- 7.3.4 Anyone who marries without the consent of the parties referred to in 7.3.1 to 7.3.3 above shall have contravened this law and shall be fined up to (six) head of cattle.

## **7.4 Marriage negotiations and celebrations**

- 7.4.1 The marriage negotiations and celebration shall take place at the parental home of the bride, unless the bride's parents agree on another place.
- 7.4.2 Successful marriage negotiations shall terminate with the handing over of the bride-to-be to the family of the groom-to-be.
- 7.4.3 The family of the bride-to-be shall be entitled to request the presence of any member of the family of the groom-to-be during the marriage negotiations.
- 7.4.4 Marriage negotiations and celebrations shall take place in terms of this law and the |Khomani tradition if –
  - (a) a |Khomani man marries a |Khomani woman, or
  - (b) a |Khomani woman marries a member of a different Damara traditional community.
- 7.4.5 Although marriage negotiations and celebrations shall take place in terms of this law and the |Khomani tradition, where a |Khomani man marries a woman of another cultural community or a different Damara traditional community, the customs and traditions of such other community shall be taken into account.
- 7.4.6 The wedding ceremony shall be attended by a member of the Traditional Authority, who will report the marriage to such Authority.
- 7.4.7 The Traditional Authority shall issue a |Khomani customary marriage certificate to the couple.

## **7.5 Marriage goods**

- 7.5.1 The parents of the bride-to-be shall be entitled to request the traditional bride price (*aba gomas*), which is 1 (one) head of cattle of high quality, or 6 (six) goats or sheep of high quality.
- 7.5.2 The bride price shall be delivered before the wedding, unless the parents of the bride-to-be agree that it be delivered within a reasonable time after the wedding.
- 7.5.3 The bride price may be substituted by its market value equivalent.
- 7.5.4 The parents of the bride-to-be shall be entitled to request the bride price from the family of the groom-to-be even if he is of a different cultural community, and irrespective of whether or not the bride price is a custom.
- 7.5.5 The parents of the groom-to-be shall deliver the full bride price to the family of the bride-to-be when required if the bride is of a different cultural community where a bride price is customary.
- 7.5.6 The right to request the bride price shall be restricted to a bride-to-be who was never married before.
- 7.5.7 The groom-to-be or his family shall be responsible for providing the wedding ring to the bride-to-be when the bride-to-be is handed over to the family of the groom-to-be after the final day of the marriage negotiations.

## **7.6 Engagement**

- 7.6.1 The handing over of the wedding ring to the bride-to-be shall signify the engagement of the couple to be married.

- 7.6.2 The wedding date shall be determined on the date of the engagement.
- 7.6.3 The couple shall be engaged for an indefinite time if the wedding date was not determined on the date of their engagement, provided that the wedding date be determined within a reasonable time.

## **7.7 Dissolution of a marriage**

- 7.7.1 A marriage shall be dissolved once the husband's parents deliver his wife back to her parents at her parental home or at such other place as her parents specify.
- 7.7.2 If the wife is not returned in such manner, the guilty family shall be in contravention of this law and may be fined at the discretion of the wife's parents.
- 7.7.3 The wife's parents may waive this right to fine the guilty family.
- 7.7.4 The bride price and the wedding ring shall not be returnable under any circumstances.
- 7.7.5 The assets of the couple at the time of the divorce shall be divided equally between them, provided that a spouse who is found guilty of desertion shall lose the right to an equal share of the joint assets.
- 7.7.6 The wife shall be the custodian of the couple's minor children unless otherwise agreed between them.

## **7.8 Inheritance**

The Councillors shall oversee the division of property when a person dies, whether testate or intestate.

## **7.9 Children**

- 7.9.1 The Traditional Authority shall recognise the mother as the default guardian and custodian of her children.
- 7.9.2 Parents shall be responsible for the actions of their children up to the age of 21 years.
- 7.9.3 All parents shall send their children to school.
- 7.9.4 Care, education and raising a child shall be the primary responsibility of its parents, but its grandparents, uncles and aunts shall also bear some of this responsibility.
- 7.9.5 The Traditional Authority shall hold any and all of the relatives mentioned in 7.9.4 responsible for the lack of care of any neglected child.
- 7.9.6 The Traditional Authority shall recognise physical punishment as a way of disciplining a child, except where this is prohibited by law in Namibian schools.

## **8. Women**

- 8.1 The Traditional Authority shall recognise women as important members of the !Khomani community.
- 8.2 The Traditional Authority shall ensure that women are protected from all types of violence and abuse.

## **9. HIV and AIDS**

- 9.1 HIV and AIDS are a matter of burning concern for the community, and shall continuously be addressed by the Traditional Authority.
- 9.2 Care for those living with HIV and AIDS shall be the responsibility of their respective families, that is, firstly the nuclear family and, secondly, the extended family.
- 9.3 The Traditional Authority shall hold any and all members of the nuclear and extended family of a person living with HIV and AIDS responsible for the care of such person if s/he has been neglected.

## **10. Family**

- 10.1 The man shall be recognised as the head of the family.
- 10.2 The man shall be primarily responsible for the family's care and protection and for the upbringing and education of children.
- 10.3 The Traditional Authority shall promote and protect family life.

## **11. Traditional healers**

- 11.1 The Traditional Authority shall recognise and encourage the use of modern medical health systems and practices.
- 11.2 Herbalists (*Hai-!Aedi-aon*), massage therapists (*!Guri-aon*), witchdoctors (*Xoma-aon*) and healers (*!Khu-aon*) shall only be permitted to perform healing ceremonies if they have been registered as such with the Ministry of Health and Social Services and are granted written authorisation by the King/Queen of the !Khomani community to perform such ceremonies.
- 11.3 Traditional healers shall be prohibited from performing healing ceremonies if the equipment to be used is not safe or in a safe condition.
- 11.4 Traditional healers shall be prohibited from using male or female private parts for healing purposes.
- 11.5 Traditional healers shall be prohibited from circumcising female private parts.

## **12. Political neutrality**

- 12.1 Any person shall be free to join the political party or parties and trade union or unions of their choice.
- 12.2 No person who holds political office shall serve as King/Queen, Senior Traditional Councillor, Traditional Councillor, or Secretary of the !Khomani traditional community.
- 12.3 Any person of the !Khomani Traditional Authority shall be prohibited from wearing political clothes at community development meetings.
- 12.4 Any member that is duly designated or recognised to act as King/Queen of the !Khomani shall be considered as having taken leave of absence under subsection (1)(a) or (3) of the Traditional Authorities Act, 2000 (No. 25 of 2000).

- 12.5 Any member of the |Khomanîn Traditional Authority who is elected or who accepts appointment to a political office shall, upon such appointment being terminated for whatever reason, be replaced in accordance with the provisions of the Traditional Authorities Act.

### **13. Gender**

- 13.1 The man shall be recognised as the head of the family and shall be responsible for the care of his family.
- 13.2 Men and women shall enjoy equal rights in all spheres of their political, social, cultural and economic lives, and shall have the right to be nominated to serve in leadership positions at any kind of meeting.

### **14. Council of Elders**

- 14.1 The Council of Elders shall consist of senior citizens aged 60 (sixty) years or more.
- 14.2 The Council of Elders shall promote the customs and norms of the community.
- 14.3 The Council of Elders shall be responsible for the sacred law<sup>6</sup> of the community.
- 14.4 The Council of Elders shall be responsible for dealing with issues related to the King/Queen and the elders in the Traditional Authority.

### **15. Youth Council**

- 15.1 The Youth Council shall be responsible for –
- (a) promoting cultural activities, and
  - (b) promoting customs and norms in the community.
- 15.2 There shall be an organising committee within the Youth Council to deal with the matters stated in 15.1.

### **16. Graves**

Any grave, irrespective of whose it is, shall be respected by the |*Khomanin* community.

### **17. Permits**

- 17.1 The Traditional Authority shall have the right to issue the following permits, but the King's/Queen's Council shall assign and authorise a person to perform this function on the Traditional Authority's behalf in the area or district concerned:

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6 The |Khomanîn Traditional Authority explained to the editor that this provision of the law “refers to customary law, which is holy and too important to be interfered with because it deals with sensitive issues in the community”.



- (a) Permission to apply for animal movement permits from the Directorate of Veterinary Services in the Ministry of Agriculture, Water and Forestry
  - (b) Permission to apply to the Forestry Department of the Ministry of Agriculture, Water and Forestry for a permit to collect wood
  - (c) Permission to apply to the Directorate of Mines of the Ministry of Mines and Energy for a mining permit and rights
  - (d) Permission to apply to the government department concerned for hunting, relocating of wildlife, plants, trees or any natural product, and
  - (e) Permission to operate a business in the jurisdiction concerned.
- 17.2 An applicant shall consult the Traditional Authority before approaching the relevant Ministry.

## **18. Abortion**

- 18.1 The |Khomanin community shall not support or approve the aborting of babies regardless of the stage of foetal development, unless an abortion has been recommended by a medical practitioner based on the danger the pregnancy poses to the mother, and is performed by such practitioner.
- 18.2 If a case of abortion is reported, the accused shall stand trial and, if found guilty, shall be fined 1 (one) head of cattle.
- 18.3 The fine shall be paid to the |Khomanin Trust Fund.

## **19. Respect of |Khomanin customary law**

- 19.1 No person, irrespective of his/her origin or status, shall be above the customary law of the |Khomanin community.
- 19.2 |Khomanin customary law shall be respected and maintained at all times.

## **20. Compensation for the loss of body parts**

- 20.1 If any person plucks out another person's eyes, or causes such person to lose a breast, an arm, a lip, their nose, a foot, an ear or a leg, s/he shall be fined 4 (four) head of cattle or their equivalent monetary value.
- 20.2 For inflicting wounds on another person's body through stabbing or striking, the fine shall be 2 (two) head of cattle or their equivalent monetary value.
- 20.3 For the loss of a tooth or a finger, the fine shall be 1 (one) head of cattle or its equivalent monetary value.
- 20.4 Witchcraft or anything associated with it shall be prohibited in the |Khomanin traditional community.
- 20.5 The fine for practising witchcraft shall be 2 (two) head of cattle or their equivalent monetary value, which shall be payable to the Community Court.

## **21. Residence**

- 21.1 Any person born to at least one member of the !Khomani and who is a Namibian national shall be permitted to reside in the area under !Khomani jurisdiction.
- 21.2 No foreigner shall have the right to reside in the area under !Khomani jurisdiction unless s/he is married to a member of the !Khomani and has acquired official permanent resident status in Namibia.
- 21.3 Land shall be allocated solely by the King/Queen and the King's/Queen's Council.

## **22. Community projects**

- 22.1 Any person wishing to start a community project in the area under !Khomani jurisdiction shall first consult with the !Khomani Traditional Authority on the matter.
- 22.2 The exclusive right to authorise such project shall vest in the King/Queen.
- 22.3 Any person who starts a project without consulting the King/Queen as stipulated in 22.1 herein shall be guilty of an offence and fined 1 (one) head of cattle or N\$1,000 (one thousand Namibia Dollars).

## **23. Monthly taxes**

- 23.1 All homesteads in the area under !Khomani jurisdiction shall pay N\$10 (ten Namibia Dollars) tax per month.
- 23.2 All shebeens and other commercial operations shall pay N\$30 (thirty Namibia Dollars) tax per month.
- 23.3 The fine for non-payment of taxes shall be double the tax.

## **24. Alcohol**

- 24.1 A person under 18 years of age shall be prohibited from buying alcohol or entering any shop where alcohol is sold.
- 24.2 The fine for contravening 24.1 shall be N\$100 (one hundred Namibia Dollars), which shall be paid into the Community Trust Fund.

## **25. Indebtedness**

- 25.1 If one person owes another or if someone has suffered a loss inflicted by another person, s/he shall be prohibited from taking the law into their own hands.
- 25.2 The indebted person or the perpetrator of the loss inflicted on another shall be reported to the Community Court for an offence that is punishable by customary law.

- 25.3 If the issue at stake was handled and settled outside the Community Court, the agreement reached shall be made known to the Community Court, which shall confirm the agreement and finalise the issue.

## **26. Inheritance**

- 26.1 A person who shares a common bedroom with his/her partner for more than 6 (six) consecutive years shall be entitled to inherit from such partner under |Khomanîn customary law.
- 26.2 If a person dies intestate, the |Khomanin Community Court shall have the right to determine the beneficiaries of the deceased estate.
- 26.3 A child born outside marriage shall have the same rights of children born within marriage.

## **27. Bride price (*Aba gomas*)**

If someone refuses to pay the bride price, he shall be taken to the Community Court and shall be fined 3 (three) head of cattle, 1 (one) of which shall be awarded to the Community Court.

## **28. Inheritance of land**

- 28.1 If the deceased, whether married or not, had a will and nominated beneficiaries therein, the surviving spouse shall concede to such beneficiaries.
- 28.2 The surviving spouse shall have the right to determine what happens to the deceased's land rights and shall have the right to remain resident on such land.

## **29. The loss and finding of animals**

- 29.1 Any lost animal that is found without legal identification shall be kept for 2 (two) years under the care of the Headman or the person assigned by the Traditional Authority to provide such care to the animal until its owner is identified.
- 29.2 If a lost animal has not been identified after 2 (two) years, it shall be handed over to the Community Court and be auctioned.
- 29.3 The proceeds of the auction of a lost animal shall be for the Community Trust Fund.

## **30. Tradition and culture**

- 30.1 Cattle shall constitute the standard unit of value in respect of charges for fines or compensation in respect of customary laws.
- 30.2 Tradition and cultural heritage, customs and norms, including compulsory payments and fines shall be respected and maintained by all and not be ignored or abandoned.

### **31. Additional notes on the Community Court<sup>7</sup>**

- 31.1 The Community Court shall be supreme in relation to all matters referred to it.
- 31.2 Only the Judge shall deal with matters in the Community Court.
- 31.3 Any person who is dissatisfied with the decision made by the Judge in the Community Court may appeal to the King/Queen as the final appellate body at traditional community level.
- 31.4 Any person who is dissatisfied with the decision of the King/Queen may appeal to the Magistrate's Court, provided that the presiding officer by way of the Magistrate or Justice of the Peace has knowledge of the customary law of the |Khomanin Traditional Authority.
- 31.5 Any hearing in a Community Court shall take place with the parties, the plaintiff, the defendant, the witnesses, and the legal representation all present.
- 31.6 Anyone who refuses to attend court when summoned shall be fined in accordance with the Community Courts Act, 2003 (No. 10 of 2003).
- 31.7 The Community Court shall summon all the parties 14 (fourteen) days before their appearance in court.
- 31.8 Anyone who bears false witness shall be fined 2 (two) head of cattle.

### **32. Animal identification and branding**

- 32.1 All farmers shall apply for brand mark numbers from the government department concerned.
- 32.2 All farmers shall have an animal register.
- 32.3 All animals shall be earmarked by hand before lawful ear tags are applied to them.
- 32.4 All animals shall also be branded.
- 32.5 The ear tags and branding irons for a family's animals shall be brought to the Traditional Authority or a person assigned by them to register the animals in the name of that specific family.

### **33. Shebeens and bottle stores**

- 33.1 The |Khomanin community shall adhere to their belief in the fundamental principle that all people should work.
- 33.2 No alcohol shall be sold to anyone before 10:00 or after 22:00 each day.
- 33.3 All shebeens shall close at 22:00 each day.
- 33.4 Children under the age of 18 shall be prohibited from being sent to buy alcohol at any time.

### **34. Weapons and knives**

- 34.1 Guns and knives shall only be used for the purposes for which they are intended, such as slaughtering and hunting.

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<sup>7</sup> See also section 6.1 The Community Court.

- 34.2 The use of a weapon in public for shooting or stabbing and other threatening acts shall be prohibited.
- 34.3 Anyone who threatens another person with a knife, gun or any other weapon shall be fined N\$200 (two hundred Namibia Dollars).
- 34.4 Any person who carries a weapon of any kind into a Community Court shall be liable to a fine of N\$200 (two hundred Namibia Dollars).

### **35. Transporting of livestock**

- 35.1 No animal shall be transported without the consent of the Traditional Authority.
- 35.2 Before applying for a veterinary permit, an applicant shall first get a letter of permission to do so from the Traditional Authority or a person duly appointed to act on its behalf. The Directorate of Veterinary Services will only issue the required permit on receipt of the Traditional Authority's letter of permission.
- 35.3 The Traditional Authority stamp shall appear on the letter of permission and shall bear the authorised person's signature.
- 35.4 Such letter of permission shall be valid for 7 (seven) days and shall apply to a once-off movement transport of livestock only.
- 35.5 In the event the livestock was not transported, an additional letter of permission shall be sought from the Traditional Authority.
- 35.6 In order to prevent illegal slaughtering of animals, owners of animals are encouraged to slaughter them in public or in view of the public.
- 35.7 If someone should collide with any livestock, s/he shall stop, identify the animal's ear tags or earmarks and thereby identify the owner so that the parties can negotiate a settlement for damages.
- 35.8 No one shall be permitted to enter a kraal without the owner's consent.
- 35.9 If a person enters a kraal without its owner's consent and sustains injury or is killed by an animal while s/he is in the kraal, the owner of the animal concerned shall not be held liable for such repercussions.

### **36. Wildfire**

Any person who starts a wildfire shall be fined 5 (five) head of cattle, of which 2 (two) shall go to the King/Queen and 3 (three) to the Community Trust Fund.

### **37. Disrespect**

- 37.1 Any Senior Traditional or Traditional Councillor who disrespects the King/Queen or any Council member shall be removed from office.
- 37.2 Any community member who disrespects the King/Queen or a Councillor shall be fined 1 (one) head of cattle, which shall be given to the King/Queen.

## **38. Land**

- 38.1 The land of the |Khomanîn shall be under the control of the King/Queen.
- 38.2 The King/Queen, in consultation with the King's/Queen's Council, shall have the right to allocate land to qualifying applicants.
- 38.3 The King/Queen shall have the authority to evict anyone from any land under his/her control.
- 38.4 Any person trespassing on land not allocated to him/her shall be guilty of an offence and may be expelled immediately.

## **39. Amendment of |Khomanîn customary law**

Any amendment of the customary law of the |Khomanîn traditional community shall be under the chairpersonship of the King/Queen.

## **40. Title and coming into force**

This law shall be known as the |Khomanîn Law and shall enter into force on 20 April 2002.

Signed on this the 20th day of April 2002 at the sub-office in Windhoek by the King, the Deputy Queen and the Chairperson of the Traditional Authority.<sup>8</sup>

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<sup>8</sup> The correct date, as legally declared by the |Khomanîn Deputy Chief, Juliane Gawa-!Nawas, is 2012.

## CERTIFICATE OF CONSENT TO PUBLISH

### UNIVERSITY OF NAMIBIA

### FACULTY OF LAW

### HUMAN RIGHTS AND DOCUMENTATION CENTRE

#### RE: CONSENT TO PUBLICATION

I, the undersigned, Chief of the /Khomani Traditional Authority, hereby give consent to the Human Rights and Documentation Centre, to publish the following documents of the /Khomani Traditional Authority:

1. The Customary Laws
2. The Community Profile
3. Picture of the Chief
4. Logo of the Traditional Authority

I acknowledge that the Human Rights and Documentation Centre will publish the laws in our indigenous language (Demara), as well as the English language. I am familiar with the contents of the laws that will be published and further acknowledge that they were prepared by my traditional authority.

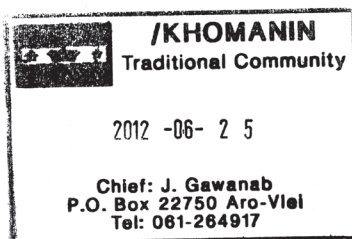
Signed on this 25 day of June 2012.

A. Windhoek  
J. Gawanab

Chief

[Signature]

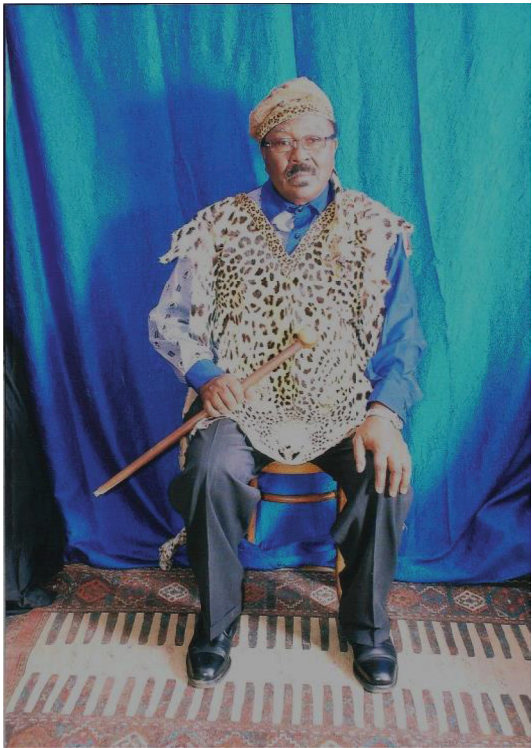
For HRDC: A. Cairiseb







**THE !OE-†GÂN TRADITIONAL AUTHORITY**  
**!OE-†GÂN DI !HAO!NÂSI †GAE†GUIS**



The supreme leader of the !Oe-ǀGân traditional community  
is *Gaob¹* Immanuel ǀNu-axa ǀGaseb.  
Date of designation: 1 June 1991



1        Traditional title in terms of section 11, Traditional Authorities Act, 2000 (No. 25 of 2000).

## **PROFILE<sup>2</sup>**

### **1. Introduction**

The !Oe-ǀGǀn traditional community is a significant clan of the Damara communities. Our ancestors, the !Oe-ǀGǀn, were among the first inhabitants of Namibia, alongside the San communities.

We acknowledge the Constitution of the Republic of Namibia which enables us to enjoy, exercise, express, preserve and develop our culture, language, tradition and faith, in as far as it does not infringe on the provisions of the Constitution.

With deep gratitude to God Almighty, with whom the destiny of nations and the history of people rest, we pledge our commitment to observe his guidance in execution of this customary law.

### **2. Historical background**

Although the Damara leadership existed well before 1390 through various Kings such as !Ā!Nā !Nānub, the Damara people resided all over the entire area of what constitutes Namibia today.

In around 1640, the Damara communities living in southern Owambo under the leadership of King !Narirab were involved in a war with the Owambo people. King !Narirab died while fighting and the remaining group – under the leadership of King Gariseb – moved south and settled at ǀKanubes (Okanjande), approximately 12 km south-west of Otjiwarongo, where they established their main seat.

Due to constant warring in the area, King Gariseb later moved further south and crossed the Orange River with his people. He later led his people back over the Orange River to ǀKanubes, where they resettled and the group grew in large numbers.

The !Oe-ǀGǀn area is in the Erongo Region (!Oe-ǀgǀb), which is home to the following mountains: !Oe-ǀgǀb (Erongo), ǀGaingu (Spitzkoppe), !Ganeb and Pagoab. The Dāures Mountain, otherwise officially known as the Brandberg, is the highest in Namibia and lies a few kilometres to the west. The ǀEseb (Omaruru) River runs through this area and reaches the Atlantic Ocean at Henties Bay.

Towards 1665, a skirmish with the Ovaherero forced certain groups to move to the Dāures area. This group was called the Aogudaman. Another group of Damara joined a

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2 This profile was submitted by the !Oe-ǀGǀn Traditional Authority.

clan that resided alongside the !Oe-ǂgâb (Erongo) Mountain, and who called themselves the !Oe-ǂGân.

They initially established themselves at ǀGûas and !Nai!aob and their surrounding areas. In later years, the !Oe-ǂGân lived under the leadership of King ǀGuruseb. Due to insufficient water for a larger group, some sub-groups migrated to live alongside the ǂEseb/Omaruru River. The area was called ǀǂǂgomes, literally meaning the wet side of a dog because a dog helped to discover a strong spring there. Under the able leadership of our founding fathers, seasonal maize, dates and wheat fields were cultivated there thanks to the plentiful supply of water.

The !Oe-ǂGân area of jurisdiction stretches from Omaruru and !Usa-khos (Usakos) to the north; Arandis, Tsoaxubams (Swakopmund) and Henties Bay to the west; ǀUis in the north-west; and to Omatjete in the north. This area is where the !Oe-ǂGân, who speak ǂNūkhoegowab, reside. The !Oe-ǂGân area has the following borders:

- The Dāure Daman traditional community to the north-west
- The commercial farms west of Omaruru to the east
- The Zeraeua traditional community to the north
- The Usakos townlands to the south, and
- The Arandis and Henties Bay townlands to the south-west.

The !Oe-ǂGân area of jurisdiction is divided into the following districts, each of which has a number of villages grouped into clusters under a Senior Traditional Leader:

- Anisweb
- ǀǂǂgomes
- !Aobelhûnis
- Goa-aos
- ǀGûas
- !Gûxas
- ǂGaingu (Spitzkoppe)
- !Khawab
- ǀNomas
- Tubusis

### 3. !Oe-ǂGân cultural/traditional heritage

Various tree species such as *anahais*, *ǀnomahais*, and *!hais* are found in this area as well. These are important for agricultural activities, human and animal food consumption, and medicine. *Goma-sam*,<sup>3</sup> *!horo*-,<sup>4</sup> *bosu-i*,<sup>5</sup> and *sâu-i*<sup>6</sup> are traditional foods prepared by the

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3 Cream.

4 Wheat, usually ploughed in the middle of the ǂEseb River.

5 Small particles of food gathered by ants.

6 Small particles of food gathered by ants.



- 4.2.3 King Hosea Goresb, 1923–1943
- 4.2.4 Acting King Theodor !Gaoseb, 1943–1953
- 4.2.5 King Dawid Goreseb (founder of modern Damara politics), 1953–1976

4.3 During the reign of King Dawid Goreseb, the ward system was introduced. The following leaders were appointed to govern in each ward:

- 4.3.1 Traditional Councillor Eddie Edward #Goseb – Goa-aos and the surrounding areas
- 4.3.2 Councillor Sedekias Gougorob – !Khawab and surrounding areas
- 4.3.3 Councillor Kefas Gurirab – Anisweb and surrounding areas
- 4.3.4 Councillor Adelbert !Uiseb – !Aobe-lhûnis and surrounding areas
- 4.3.5 Councillor Mesag !Auxab – !Uis (Uis) area
- 4.3.6 Councillor Fillemon !Gonteb – !Â#gomes area
- 4.3.7 Councillor Edward Eddie !Keib – Oubrom area
- 4.3.8 Councillor Reinhard !Gonteb – !Hoas area
- 4.3.9 Councillor Lazarus Gurirab – !Â#gomes area
- 4.3.10 Councillor Albert Gurirab – !Â#gomes area

#### **4.4 Current administrative establishment of the !Oe-#Gân traditional community**

- 4.4.1 Prior to his death, King Dawid Goreseb of the Goreseb Royal House left a written testimony to the effect that his successor should be selected from the bloodline of his Royal House, and specifically from the family house of Erica Goreses (!Gases), the great-granddaughter of King Cornelius Goreseb.
- 4.4.2 Although this testimony was read to the mourners during the church burial service on 6 November 1976, the document written by the King was later nowhere to be found. As a result, the King's wishes have never been implemented.
- 4.4.3 According to the document, King Dawid Goreseb clearly stated that his great-grandson Immanuel #Nu-axa !Gâseb should be his successor as the King of the Damaras.
- 4.4.4 It must be clearly understood that the headquarters of the Damara nation was at !Â#gomes in the present-day !Oe-#Gân traditional community area, and the Goreseb Royal House originated from that area.
- 4.4.5 Against this background, the !Oe-#Gân traditional community was customarily correct in designating Immanuel #Nu-axa !Gâseb as their King (*Gaob*). He was sworn in, endorsed and traditionally confirmed during the inaugural festival of the current leadership at !A#gomes by clan elders such as the current Speaker of the National Assembly and former Minister of Foreign Affairs Dr Theo-Ben Gurirab, Gisela Pieters (née Tsâuses), and Simson Tjongarero.

**!O<sub>E</sub>-†GÂN DI †HANUGU**

## EDITOR'S NOTE

As this book was about to go to the printer, the Human Rights and Documentation Centre (HRDC) of the University of Namibia was approached by some members of the !Oe#Gan community who stated their wish that we not publish the laws of the !Oe#Gan. A letter of a “!Oe#Gan Traditional Community Technical Committee” was addressed to the HRDC, raising the complaint that the “!Oe#Gan Traditional Community ... never had the opportunity to ... [workshop] its customary law nor were they given an opportunity to give input on the current document.” Members of the “Technical Committee” were subsequently received by the HRDC, during which meeting they repeated their complaint. The supreme leader of the !Oe#Gan was invited for a meeting but was not able to attend. However, he confirmed by telephone call his consent to publish the laws as they are stated in this publication.

The HRDC and the Editor of this publication decided after considering the said complaints that they would proceed with publication of the book, but have this Editor's Note for the information of the user of this publication. As stated in the Introduction to this Volume and the Editor's General Note on page viii, it was not the task of the editorial team of this publication to verify the internal process that led to the self-stating of customary law by the various communities. For the editorial team, it was important to be given the duly stamped certificate of consent for publication by the Traditional Authority. It was not shown to the HRDC and the editorial team that the consent received from the !Oe#Gan Traditional Authority under its duly appointed supreme leader was not valid.

This leaves it to the community, as the case may be, to enter into a process of amending or changing the laws as they are stated in this publication, in accordance with the rules of the respective communities and the provisions of the Traditional Authorities Act.



# 1ro Dana!Âs

## 1ro Artikels: Mî!Gā!Gādi

Nē !Hao!nâsi †Hanumās !nâ di ge sao ra !khaide nēti ra †âibasen hana di ga sîsenū!nâhe ra māsib xa !kharati †âibasensa māhe tama kara io:

|                           |                                                                                                                                                                 |
|---------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Ana!gaos</i>           | ge !gao!gao †hanumākuru †nūlares !Oe-†gā !Hao!nâsi<br>!Hûhâsib dis ti ra †âibasen                                                                               |
| <i>Dana Danakhoen</i>     | ge !hao!nâsise ra sîsen dana khoen †am ai hâ dana<br>khoen ti ra †âibasen                                                                                       |
| <i>Danakhoen</i>          | ti mîs ge !hao!nâsise ra sîsen dana khoen ti ra †âibasen                                                                                                        |
| <i>Gaob</i>               | ge hoan xa !gapi !hao!nâsi †gae†gui-aob !Oe-†Gân di<br>!Hao!nâsi !Hûhâsib dib hâ 18! Artikels ne !hao!nâsi<br>†hanumās dis !oagu a !gaumâisab ti ra †âibasen    |
| <i>Gaosarab</i>           | ge †hanulî sarab hoan xa !gapi †gae†gui-ao-i dib ti ra<br>†âibasen                                                                                              |
| <i>Gaos</i>               | ge hoan xa !gapi !hao!nâsi †gae†gui-aos !Oe-†Gân di<br>!Hao!nâsi !Hûhâsib dis hâ 18! Artikels nē !hao!nâsi<br>†hanumās dis !oagu a !gaumâisas ti ra †âibasen    |
| <i>Gao†guis di !Gâus</i>  | ge gao†guis di !aokhoen !îna xū i ra Gaos tamas<br>ka io Gaob !Oe-†Gân di !Hao!nâsi !Hûhâsib tiba<br>!gaumâihena ti ra †âibasen.                                |
| <i>Tsēkhom</i>            | ge !nâu !hoa!gaub kai hâ kaikhoen ra abaxan !oagu<br>!hoab ti ra †âibasen                                                                                       |
| <i>!Gawas</i>             | ge !gapas ti !gui ra †âibasen                                                                                                                                   |
| <i>!Gâibasenhaib</i>      | ge †hanulî !hao!nâsi !gûma-ûhaib ti ra †âibasen                                                                                                                 |
| <i>!Hao!nâsi †hanumās</i> | ge hoan xa !gapi †gae†guis †hanumās !Oe-†gā !Hao!nâsi<br>!Hûhâsib dis ti ra †âibasen                                                                            |
| <i>!Khē-oms</i>           | ge hoan xa !gapi †hanumākuru !gae!ares !Oe-†Gân di<br>!Hûhâsib dis ti ra †âibasen                                                                               |
| <i>!Oe-†Gân</i>           | ti mîs ge !hulî khoen †Nûkhoegowaba ra !hoa<br>Namibia!lîn ti !onsa !lîn ge aboxan ge !Oe†gâluiiba xa a<br>!huina tsî nētsē !Oe-†gâb †namipe hâ !âdi ai ra hâna |
| <i>†Ai-am †goab</i>       | ge !hao!nâsi †goab piri-i, gû-i tamas ka io xamari-i di<br>khōba xu a kurusab ti ra †âibasen                                                                    |
| <i>†Gae†gui-ai!hūs</i>    | ge ama-ai tsoatsoas di †gae†gui-ai !hūs !Oe-†Gân di<br>!Hao!nâsi !Hûhâsib ti ra †âibasen                                                                        |
| <i>†Nû-ai!naos</i>        | ge †hanulî !hao!nâsi !nao †nû-ai!naos ti ra †âibasen                                                                                                            |
| <i>†Nûkhoe</i>            | ti mîs ge tsoatsoas di !ons Damarakhoen disa                                                                                                                    |

## 2||† Dana!Âs: !Hao!Nasi †Gae†Guis (2–6)

### 2||† Artikels: !Hao!Nâsi †Gae†Guis Di |Ons

!Hao!nâsi †gae†guis di |ons ge a !Oe-+Gân di !Hao!nâsi †Gae†gui.

### 3||† Artikels: !Oe-+Gân Di !Hao!Nâsi †Gae†Guis

3.1 †Gae†guis di |gaib !Oe-+Gân di !Hao!nâsi †Gae†guis dib ge !Hao!nâsi |Apemā!nans !nâ |goe tsîs ge |lisa sao rase a !am|aresa:

- (a) Gaob tamas ka io Gaos
- (b) Dana Danakhoen
- (c) Danakhoen
- (d) Xoamâi-ao-I, tsi
- (e) |Arohesa |anin.

### 3.2 Sîsengu tamas ka io !ereamdi !Hao!nâsi |Apemā!nans di |anin didi

3.2.1 !Hao!nâsi |Apemā!nans !Oe-+Gân di !Hao!nâsi sîsen|gâude |hûiba †haridi !nâ !khômâi tsî nî sîsen†am.

#### 3.2.2 Gaob/Gaos

- (a) Gaob/Gaos ge a !Oe†gâ !Hao!nâsi |Hûhâsib di Khoena nî |gû khoese |ba tsî a |lîn di !hao!nâsi dana.
- (b) Gaob/Gaos ge !Hao!nâsi †Hanumâs tsî !Hao!nâsi |hû|lareb !O†gâ khoen diba ai!gû kai, !khô|gara tsî |kham|khaeba |nâti khoena surib, †gî†gôs di |lanisis tamas ka io †goms di |lanisis !oagu |gora tamase.
- (c) Gaob/Gaos ge a !Oe-+Gân di !Hao!nâsi |Apemā!nans di ai†nû-ao.
- (d) Hoa sîsen !gaclaredi ge Gaob/Gaosa !oa !ereamsa surude hâ |lîn di sîsen|âxasigu di sîsen†uib !nâ
- (e) Gaob/Gaos ge Danakhoena nî |gaumâi nê !Hao!nâsi †Hanumâs di 19|| Artikels !oagu

3.2.3 Dana Danakhoen tsî Danakhoen ge: Gaob/Gaosa |lîs di sîsenga dî†uis !nâ nî |lapemā.

3.2.4 Xoamâi-ao-i ge hoa !oabas di sîsengu !Hao!nâsi |Apemā!nans diga nî taniba.

### 4||† Artikels: !Oe-+Gân di !Hao!Nâsi †Gae†Guis di Sîsenxu !Âs

4.1 Sîsenxu !âs !Oe-+Gân di !Hao!nâsi †Gae†guis dis ge a !Â†gome.

## **5!ĬArtikels: !Oe-†Gân di !Hao!Nâsi saodi, ‖Nae-Ams, !Haub, Gowab Tsî ‖GaulGausen Saos**

### **5.1 Gaob/Gaos di saodi**

5.1.1 Gaob tamas ka io Gaos ge sao ra ‖gaulgaude nî ūhâ tsî di ge !garob di xūn !Oe†gâ  
‖kharib dīn ‖kha kuruhe tsî nî ananhe:

- (a) Gaosarab
- (b) ‖Gawas
- (c) ‖Gâibasen haib
- (d) †Ai-am †oab
- (e) †Nû-ai !naos

### **5.2 ‖Nae-Ams**

5.2.1 !Oe-†Gân ‖Nae-ams ge a “†Nû !Haose hā re!”.

### **5.3 !Haub**

5.3.1 !Haub !Oe-†Gân !Hao!nâsi ‖Hûhâsib dīb ge a ‖hom†hoa haka‖khābe.

### **5.4 Gowab**

5.4.1 †Hanul† sîsen†amxūn di gowab !Oe-†Gân di !Hao!nâsi ‖Hûhâsib di sîsengu tsî †nûdi  
dīb ge a †Nûkhoegowa.

### **5.5 !Hao!nâsi ‖gau†uisens saos**

5.5.1 !Oe-†Gân di !Hao!nâsi ‖Hûhâsib di !Hao!nâsi ‖gau†uisens saos ge !Oe†Gâb tsî !Ari  
‖khās tsîna.

## **6!ĬArtikels: Khoe-I / ‖Anisis**

6.1 Khoe-i ge a !Oe†gâ ‖i-i ra !Hao!nâsi †Gae†gui !hūs tamas ka io ‖kharib !nâ ‖lan  
‖khais ‖guisa xu tama i tsî xawe sao ra ‖khaidi di ‖guis !oagu:

- (a) ‖i-i ga !Oe†gâ !Hao!nâsi †Gae†gui !hūs !nâ ‖lan; tamas ka io
- (b) ‖i-i ga !Oe†gâ-i di ‖gôao; tamas ka io
- (c) †Nûkhoegowaba !Oe†gâ !hoalgaub ai a !hoao; tamas ka io
- (d) !Oe-†Gân !Hao!nâsi †Gae†guis di !khō!oas ‖kha ‖nā ra mīhe !Hao!nâsi  
†gae†guis di sîsen‖gaub di ‖garagu !oagu.

### 3|| Dana!Âs (7–9)

#### 7|| Artikels: †Hanumākurus Di †Gaib

- 7.1 !Oe-†Gân di !Hao!nâsi †Hûhâsib di †hanumakurus di †gaib ge †gam †nanra !Oe-†Gân di !Hao!nâsi †Gae†guis dira xa tanihe hâ, †ons ai ra ge a:
- (a) Ana!gaos tsî
  - (b) !Khê-oms tsîra.

#### 7.2 Ana!Gaos

- 7.2.1 Ana!gaos ge a !gao!gao †nan †lîs †nâ di †hanumāde kurus di †hâsib †amas ka io †hao!nâsiba †kharalkharas di †hâba nî aolgui!nâhese isa.
- 7.2.2 Mâ aolguisa †hanumâs †amas ka io dî-unus ge Xoamâi-ao-i tawa nî mā†gâhe, tsî i ge nî †lî-e Gaob/Gaos di †gui-ais †kha †guilguibe †khoena †khau†ui †nâ Ana!gaos di †nûs †nâ †hao.
- 7.2.3 Nêti ra ai†homihe †hanumas †amas ka io †hanumâs di dî-unus ge !Khê-oms tawa nî †khael†nâhe †khō-ams †aroma †kharalkharas †kha †amas ka io †kharalkharas ose.
- 7.2.4 Hanas ga †hanumâs di †kharalkharasa nî †harahe kara os ge Ana!gaosa †oa nî sî-oahe †is †khawa †hoa!gaohe †nâ i go dawahe †amas ka io aolguihe †khami.

#### 7.3 !Khê-Oms

- 7.3.1 †Uni †khō!oas Ana!gaos xa a aolguisa †hanumâ-i dis ge a !Khê-oms di.
- 7.3.2 !Khê-oms ge sao ra †khoena xu nî †kursa, Gaob/Gaos, †orodomma †nona †lanin †hao!nâsi †Gae†guis †din tsî †orodomma koro †khara †kaikhoen †taradi tsî aoga xu †hân tsî †hâbasa i kao †gui †khoe-i †lî-i di †ansabesis †aroma a †gaumâisa-i.

#### 8|| Artikels: †Hûhâsib Di †Hanumâdi !Oe-†Gân Di !Hao!Nâsi †Hûhâsib Didi

#### 8.1 †Gae†Gui†Gās

- 8.1.1 !Hao!nâsi †Hanumâdi !Oe-†Gân di !Hao!nâsi †Hûhâsib didi ge †gaxuse mā †nae!khaide †ûhâ tsî a †khōdao-oahe †khā 1600lî †kurigu di †laeb †kōse, †sida di †aboxagu ge †guipa †hao!haosen tsî †lō-aisa †gae†gui-aob †nâga tsî †lnâti †dîs †kha †hanumâdi di †garaga †lî!nâbe gere †an!gâbagu.
- 8.1.2 Nêtsē i †guis ti ra †mîhe †xoamâi-i †lnâti †!hao!nâsi †hanugu di-e a †khai †xawes ge †nae!khaidi di †ansa ra †mîba da †gaisa †dao†gau ra †garagu gere †nâu!namhesa.
- 8.1.3 †Hûhâsib di †hanumâdi ge ge †gao!gao i †lîdi †kha i ge †khoen gere †sîsen!lare †gauba gere †sîsen!amhede †i i †sîsen!arexa †ûiba †lapolapohe.

- 8.1.4 Nē !Hao!nâsi †Hanumās ge !khāti daoba nī !gui !garagu tsī sīsen!gaugu !hao!nâsi xūna sīsen†ams diga hana gu ga !lga !nai hā †hanumādi Repuliki Namibiab dīb !nā hāgi !kha mā!oagu tamas kōse.

## 8.2 †Hanumādi

### 8.2.1 Sīsenūs

!Gui xū-i hā !Hūhāsib di †Hanumās !nā a !khō†gāsa-i tsīn ge !nāti !nāu!āhe tide !Oe-†Gân di !Hao!nâsi †Gae†guis ra !khāihesa !s tā lawa!namgu ai !nuri!gāsa sī dī, !nās !khā khami i ge !gui xū-i tsīna !khae tide !khais go lawa!namgu ai a !nurihe !khais !aromas !nā !khais !khāsa !Oe-†Gân di !Hao!nâsi †Gae†guisa !nā !khais †ama dā!harode ū tide ti, !nā !û†amao-i !oagu tsī !Hao!nâsi †hanumādi ra mā-am khami.

- 8.2.2 Sao ra !khaidi ge !û†amdi ase ra !gapalīhe, !gau ra dā!harodi tsī !kharalgaugu !kha:

- (a) !Naris
- (i) Khoe-i di xū-e !naris ge horagase a !khāisa.
  - (ii) Khoe-i hā !naris !kha ra †ai!gāhe-i ge !Hao!nâsi !Gora!gā!khaiba !oa nī †gaihe i !napa †hai.
  - (iii) Hana i ga !nāti ra †ai!gāhe khoe-e !hawixase nī hōhes kara o i ge !nā i go !nari hā i xū-i di harebese !gamesase nī matare-oa.
  - (iv) Hana i ga !narihe go hā i xū-e nī hō-oahes kara o i ge !na xū-i di harebes di !khareb !guiba nī matare kaihe.
  - (v) Khoe-i ga !narisa xū-i !kha kara !hao-ūhe tsī i ga !honkhoe-e kara !ūsa soagu ai, os !Hao!nâsi †Gae†guisa !gora!gāsa nī tsoatsoa !nāti khoe-i !oagu.
- (b) Khoe!Gams Tsī !Ūsis !Nā Khoe !Ōba !Aromas  
Hoa !gamra khoe!gams tsī !ūsis !nā khoelōba !aromas tsīra ge a !khō!khōsa !û†amse ra !gapalīhe tsī i ge !hapixase ra hōhe khoe-e matare-oasa nī dī bardena mās !kha tamas ka io marisa mās !kha !Hao!nâsi !Gora!gā!khaib ra !apolapo khami.
- (c) !Nā†Ams
- (i) Mā-i ka !gau xawe khoe-e sorosise tsūtsūs tamas ka io !nāti dī †gaos ge tsūdīb di !û†ams ase ra !gapalīhe tsī i ge !nāti ra †ai!gāhe khoe-e !Hao!nâsi !Gora!gā!khaib tawa nī †hai.
  - (ii) !Nā†amhe go khoe-i ge !aedī-ao-I, kliniks tamas ka io !aelgāus !i nī sīhe i i †urusiba ōa!nāhe tsī i ge †urusib di !nuriba nī māhe !Hao!nâsi !Gora!gā!khaib !nā !khais xa xū-e nī mīs ai!ā.
  - (iii) Khoe-i ga tsūdīeh go khoe-e !i-i sorsos di !ā-e nēti !nā†ams !nā nī †aos!nās kara, o di ge sao ra !kharalgaugu tamas ka io madawa-amlgauga nī sīsenūhe:
    - (aa) †Gaes – N\$1,000
    - (bb) Mūs – N\$5,000
    - (cc) †Guis – N\$1,000
    - (dd) Amlgaub – N\$1,000

- (ee) !Gûs – N\$500
- (ff) Nammi – N\$5,000
- (gg) !Khunub – N\$2,500
- (hh) !Oms – N\$5,000
- (ii) !Ôab – N\$5,000
- (jj) !Nûb – N\$5,000
- (kk) Sams – N\$5,000
- (ll) !Hapis – N\$1,000
- (iv) Nê |gapika mâ mari†gan|gaub ge barden di mari†gan|gauba !oas tsîna a !gôa!khunihe !khâ madawa-ams di !aromadi ai.
- (d) !Gai!Khôs
  - (i) |Gai!khôs ge !khô!khôsa !û†amsa, tsî kai-am !nâdi ai |gai!khôhe go khoe-i tawa |gaisa gagasi danalgarusa ra !aromaba.
  - (ii) Tsî i ge |gai!khôhe go khoe-e nî madawa-amhe N\$5,000 gu tamas ka io !nâtikô marilgauba ûhâ barden !kha.
- (e) Omaris Ai !Oregus
  - (i) Mâ-i kara |gau xawe omaris ai nau khoe-e sorosise, tsâ!gausise tamas io marilgausa i ge dana khoe-i tawa nî !nurihe.
  - (ii) !Orodommab ge !khara hîa ra |gui-aiheba a N\$1,000.
- (f) !Gam!Khâ Kais
  - (i) Hanas ka |gôas 18 kurixa tamasa nî |gam!khâ kaihes kara, !îs di mǎ-ams !khas karas tama ka io !îs di mǎ-ams oses karas hoas xa, os ge !nâti !khaisa !û†ams ase ra !galâlhe.
  - (ii) Ob ge !nâti go tsûdî aoba !nâ |gôas di |gûna N\$10,000 ga nî matare tsîb ge noxopa !nâ |gôas di |gau!nâs di marimǎuisa nî mǎloaba hanas ga !nâ |gôasa skol!gôas karao.
- (g) !Gameb !Auga Soregus
  - (i) !Gameb !auga soregus ge !û†ams ase ra !galâlhe, tsîs ge †uru !aokhoesi !gaclarede ra khôalnâ mâ !hûhâsib hoab !nâ tsî di gen î !kharaxûhe tsî !Hûhâsib di |Gora!gâ!khaib !kha nî !kham!oahe.
  - (ii) Mâ-i ka khoe xawe i ga !gameb !auga soregus !nâ !hawixase nî hōhes kara o i ge N\$1 000 nî matare kaihe.
- (h) Surudegus
  - (i) Khoe-i hîa nau khoe-i xa xû-e surudehe hâ-i ge tǎ †hanuba !î-i di !omlae nî û, mîmâidi ga dîloaloahe tama kara i soab ai, xawe i ge !nâ !khaisa !Hao!nâsi |Gora!gâ!khaib tawa nî !nurihe !s sî!nâhe !kha |gora!gâsa mǎhe |gau rase.
  - (ii) |Gora!gâ!khaib ge a mîmǎ !khâ !s !nâti madawasa dîhe 10%gu !kha tamas ka io !îgu ose.
- (i) Mǎ-Ams Ose !Aus
  - (i) !Hûlarebesi !hûb ai mǎ-ams di †khanis ose !aus ge a †khâsa.
  - (ii) Mǎ-ams ge aibe Ministris |Gurun di !ûib tsî !Narisarimasa xu ni hōhe !Hao!nâsi †Gae†guis di sîsenlareb !kha.
  - (iii) !Kharab N\$500 gu dîb ge ra |gui-aihe khoe-i ga !nâs !nâ !hawixase kara hōhe soab ai.

- (j) †Ae†Huwiba Kurus
- (i) Mâ khoe-i †gui-i ka xawe i ga nau khoe-i di xũ-I, !ûre-aib, oms, tsî  
‡nāti tsî ‡nāti †anapeka tamas ka io lū i ase nî †hoadi tamas ka io †oa!nā  
kais kara o i ge †i-e †ae†huwiba kurus ai †hawixase nî †gapalhe.
- (ii) †Orodomma ra †guihe †kharab ge a N\$5,000.
- (k) †Ama!Khunis
- (i) Mâ khoe-i hoa-i hîa mari-i tamas ka io †nî xũ-e †Hao!nāsi †Hûhâsib  
di †lani-e ra mā-i î i †lî-i di tsūdiba sâusâuhe.
- (ii) †nāti khoe-i ge †û†ams †kha †hawixase nî hōhe tsî nau-i hîa go †nāti  
marisa a †khō!oa-i tsîn ge †khâti †hawixase nî hōhe.
- (iii) †Orodomma ra †gui-ahe †Kharab ge a N\$1,000.
- (l) †Nâs Tsî †Aaro-E Aoxūs
- (i) Mâs ka khoe xawes ga †lîs di †gam!khâsisa kara †ālnâ tamas ka io mâ-î  
ka khoe xawe i ga †nāti î khoesa †ālnâs tama ka io †aro-e aoxūs †kha  
kara hui, o i ge †û†ams †kha a †hapixa. †Ālnâs dîtsâs tamas ka io mati  
i nîālnâhe †khais †kha huis tsîn ge a †û†am.
- (ii) †Orodomma ra †gui-ahe †Kharab ge a N\$5,000.
- (m) †Gari-Ams
- (i) Mâ †lani-i †hûhâsib di-i hoa-i ge ai†hanuba ūhā †gōahes diba tsî î i  
sîsenlārexase nau khoen †kha ūi tsî khoe-i hîa nau-e ra †homi†gari-  
am-i tsî †nās †kha nau-e gagasise ra †khoadi-i tsî khoesis †nā khoe-i  
dis tsîna ra khōa-i.
- (ii) †nāti khoe-i ge †orodomma N\$500 ga nî †kharabe.
- (n) †Khās
- Mâ-i ka khoe xawe i ga mâ-i ka †gui†am xawe †gora!gâ!khaib di †gui†amsa  
dîloaloasa nî †khās kara, aîlgause, †gora!gâsa †hao!nās, †gora!gâs †nā sî  
xetuis, †gora!gâ!khaib ra mimā †kharaba matares, khoe-i hîa †homi xetuisa  
ra mā-I, nēn hoan ge †û†ams ai nî †kharabe lîn ra †Hûlārebe †Gora!gâ!khaib  
di †Hanumāsa †û†am xui-ao.
- (o) †Khî-O!Nā †Gora!Gâsa †Gapigab †Oa Dî-Unusa †Gan†Gābasens
- (i) †Khawa †Gora!gâs di †Gaelares ge Gaob/Gaos tsî †gam †khara  
kaikhoena xu nî hâ hîa Gaob/Gaos xa †Oe-†Gân †Hao!nāsi †Hûhâsiba  
xu a †gaumâisana tsî †nî †nādi ai †gau!nāsa †hanu†ansabena.
- (ii) Mâ khoe-i hoa-i hîa †gora!gâs †kha †khî tama-I, tamas ka io  
†hawixase hōs †kha, tamas ka io †kharab †kha-i ge †Khawa †Gora!gâs  
di †Gaelares †oa 30 tsēdi †kharu tama hîa †nā †gora!gâs khoa!gâ  
†khawa †gora!gâs †aroma †gan†gâsa a dîbasen †khā.
- (iii) Mû†am goro Dana!gora!gâ-ao-i †Hûhâsib di †Gora!gâ!khaib di-i ge  
14la tsēdi †nāti î †khawa †gora!gâs di †gans go mā†gāhes khoa!gâ  
†kharu tama hîa †khawa †gora!gâsa nî mā†gā, †aromadi †gora!gâs  
didi, tsî †gora!gâs ge †gûlnā †gaub di xoalguib tsîn hoana †Khawa  
†Gora!gâs di †Gaelares nî mā.
- (iv) †Khawa †Gora!gâs di †Gaelares ge †guro go hâ †gora!gâsa †khō!gâ  
tamas ka io a aotui †khā.

## 9|| Artikels: |Hûhâsib Di |Gora!Gâ!Khaib Tsî |Gora!Gâs Di Sîsen|Gaugu

### 9.1 |Hûhâsib Di |Gora!Gâ!Khaib

- 9.1.1 !Û+amdi tsî |nâusâgude |gora!gâs di |gaib ge |Hûhâsib di |Gora!gâ!khaigu !Oe-+Gân !Hao!nâsi +Gae+guis diga a !nao-aoisa. Tsîs ge |lîsa a +an!gâsa tsî |nai ge !amlarehe Seksi 2 (3) tsî Seksi 4(1) tsîra |Hûhâsib di |Gora!gâ!khaigu di +Hanumâs 2003|| kurib dis (10|| +Hanumas 2003|| kurib dis) !oagu, mâsaogu ra ra khami, |uniga go mîhes di |garagu |kha mâ!oagu tamase.
- 9.1.2 Nê |Gora!gâ!khaigu ge |gaiba nî ûhâ î gu !Oe+gâ !Hao!nâsi |Hûhâsib di |lanin laegu ra mâ-i ka !khai xawe hâ +noagude !gâ, ôa!nâ tsî oresas mǎ.
- 9.1.3 |Nî |lhôgu !nâ gu ge |nâu!gâ !khaiga |nâugus tsî |ûbagus di sîsenga nî dî.
- 9.1.4 |Nâu!gâ !khaigu ge aitsama mâbasen hâ tsî gu ge +hanuba sîsenûs !nâ |khâ-e |hûi tamase |gui |khâb di !gâ!gâ !aroma |gui tama i, !ao tama i tsî tamas ka io aibekam |gora!gâs ose nî sîsenû.
- 9.1.5 |Nâu!gâ !khaigu di sîsengu |kha +gobesens ge mâ-i ka khoe xawe a !khâisa.
- 9.1.6 Gaob/Gaos ge |Gora!gâ-aon |Gora!gâ!khaigu din, !âi!gâ-aon, xoamâisîsenaon, sîsaben tsî +nûi!khuni-aona nî |gaumâi.

### 9.2 |Gora!Gâ!Khaib Di Sîsen|Gaugu

- 9.2.1 |Gora!gâ!khaigu di sîsen|gaugu ge +orisase |Hûhâsib di |Gora!gâ!khaigu di +Hanumâs 2003|| kurib dis (+Hanumâs 2003|| kurib dis) di Seksidi 19–22 kôse hâdi !oagu |gui nî sîsen.

## 4|| Dana!Âs (10–12)

### 10|| Artikels: !Hûb

#### 10.1 !Hûb |Honkhoesis

- 10.1.1 !Oe-+Gân !Hao!nâsi |Hûhâsib ge ai+hanuba ûhâ |lîn di |hûlarebe !hûba |hûlarebese ûhâ, sîsen+am tsî sîsenûsa, tsî |lî !hûb ge !hûb di |luiba sîsen+ams, nau nî hâ |luiga omkhâi tamas ka io ôa!nâs, hain, |gurun tsî !nâu !khaidi tsîna |khô+gâ hâna, ailgause |hobadi tsî gagasi !nâu !khaidi tsîna.
- 10.1.2 Hoa |hûlarebe !hûb !Oe-+Gân !Hao!nâsi +Gae+guis a |honkhoe aib ge !nâ+amsase +gari tsî !hao!nâsise sîsenûs !aroma nî sîsenûhe hana i ga |kharati |gaulgauhe tama kara io.
- 10.1.3 !Oe-+Gân !Hao!nâsi |Hûhâsib ge +hanu-aisi ai+hanuba ûhâ îb xûdî-aose, marisise tsî nau |gaugu hoagu ai !gâiba |lîn di !hao!nâsi !hûba xu |lama.



## 10.2 !Hūba |Goras

- 10.2.1 |Hūlarebe †garis di !hūdi hoadi !nāb ge hoa !hūba a †Hanub di tsī !Hao!nāsi †Gae†guidi ge a !khōlgara-ao Presidenti Namibiab di Republika ra †nūlkhaebase !nās ge |Hūlarebe !Hūdi di Dī-unus di †Hanumās, 5lī †Hanumās 2002lī kurib dis !oagusa.
- 10.2.2 |Nā-amagas ge !hūba |goras tsī sīsen†amsa, nēsis ga !ūre-aib !aromas kas, lans !aromas kas, †harugus !aromas kas, tamas ka io !nī hā !aroma-i !aromas kas hoas xa !Hao!nāsi †Gae†guis xa nī sīsen†amhe nē goro mīhe †Hanumās !oagu.

## 10.3 |Gam-E Sīsen†Ams Tsī Kō!Gās

- 10.3.1 |Gam-i ra hōxūhe !khaide sīsen†am tsī †hanuse †gae†guis ge kaise a †hā†hāsa î da hā nī !aeb di ūib khoen, |gurun tsī hoa †namipeb diba !khōlgaïpe.
- 10.3.2 Mā !ani-i |hūhāsib di-i hoa-i ge |guri mā !ereamsa tani hā î i !līn di |gamamsa !ūi!gā tsī i ge tā !nāti tanisens !kha nī †gobesen |gam-e †urusib !nā tsī !norasase sīsenūsa ra !khaesa.
- 10.3.3 |Gam-e †anapega †khōas ge a !khāisa tsī ra !kharabahe.
- 10.3.4 |Gam-e sīsenūs !aroma mīsa marisa matures ge a |garilgarisa hoa !anin |hūhāsib dīn !aroma.
- 10.3.5 Nēsa dīloaloa tama is ge !nā !ās di !Hao!nāsi †Gae†gui-aon ai nī !nurihe.
- 10.3.6 !Nās !nāti mā xawe, |gui |hūhāsib tsīn ge !nāu!āhe !oasase nau †gari-aon hīa |gāus ai sīsenūs tamas ka io bardena āsis !aroma †hā hāna !nāu!āhe !oasase |gam-e |gāi tide.

## 10.4 |Gurun

- 10.4.1 |Gurun, nēsin ga !garob dis tamas ka io omaris dis kas anin tsīna !khō†gā hāsen, ge nī !ūi!gāhe, !līn khoets !līn ose a ūi !loa xū xui-ao.
- 10.4.2 Mā !ereamo!nā dīb tamas ka io sorosise |guru-e tsūtsūs ge ūib di |guitikōsiba ra |guika!khobe kai !ū†ams ase ra !gapalihe tsīs ge hoa !khāsigu !khan nī !kham!oahe.

### 10.4.3 |Gurus Tamas Ka Io Omaris Di Bardena †Oa!Nās

- (a) Mās |guis ka xawe |gurun tamas ka io bārdēn di †oa!nās ge !nā !kharib di !Hao!nāsi †gae†gui-ao-i tawa nī !nurihe tsīn ge !līan †hōa†gares !nā-ū nau khoena nī †an†an.
- (b) Kā hā |gurun di daosa !kharal!kharas ge a !khāisa tsī |Hūhāsib di |Gora!gā!khāib tawa a !kharabahe !khā.
- (c) Kā hā barden di !honkhoe-i ga !nona tsēdi !nā hōhe tama nī !s kara o i ge !nā bardena go !khōlgara hā i |hūhāsib di khoe-e !līna Danakhoe-e nī mā î i !lī-e tari-i di-i a !khaisa !lapollapo.

- (d) Hana i ga †honkhoe-e †nona kurigu †khao!gâ nî †kheres kara o i ge †asase ge †lorahe barderon hoana a †khō!gara-ao-i di †nā bardena go †nuri-e.
- (e) †Nāti bardena hō tsî ga †nuri tama kara i khoe-i ge nē seksies ra mā ai†hanuba ūhâ tide.

## 10.5 !Ūre-Aib

- 10.5.1 †Anaihe hâ †khaidi †guide tama ī tsî †garob di †hūb †hūllarebese †gari hâ khoen dib ge hoa khoen xa †guipe nî sîsenūhe hana gu ga kamgu †kha †gorasa tama kara io.
- 10.5.2 !Ūre-aib ge tā nî dīgagahe, †ae†huwi hāgu khami ī xūna xu.
- 10.5.3 Tsî khoe-i hîa †nāti ī †khôadība ra kuru-i ge nî †kharahē.

## 11!Ī Artikels: †Honkhoe-Aisa Xūn

- 11.1 !Oe-+Gân †Hao!nâsi †Hūhâsib ge †khonkhoe-aib a tanimāhe ra tamas ka io †gui †khais ai †gui ra mā xūna hōbasens, †lamas, †khupis, †lamaxūs, tamas ka io hōbasens tsî mākūs, ūhâs di ai†hanuba nî ūhâ †hūhâsib di †lons †nâ 18!Ī Seksis (1) †Hoa!nâsi †Gae†guidi di †Hanumās, 25!Ī †Hanumās 2000!Ī kurib dis †oagu.
- 11.2 Hoa tanimahe †khā tsî tanimāhe †loa †honkhoe-aisa xūn †hūhâsib din ge †oa!ū †Oe-+Gân di †Hao!nâsi †Gae†guis xa nî †ūi!gâ tsî sîsen†amhe.

## 12!Ī Artikels: †Hūhâsib Di Hui!Nâ Sâu+Gaes

- 12.1 !Oe-+Gân di †Hao!nâsi †Gae†guis ge †Hūhâsib di Hui!nâ Sâu+gaesa nî kuru †hao!nâsi †hūhâsib di †gâi!gâb †aroma, †Hao!nâsi †Gae†guidi di †Hanumās, 25!Ī †Hanumās 2000!Ī kurib dis di 18!Ī (3) Seksies †oagu.

## 5!Ī Dana!Âs (13–16)

### 13!Ī Artikels: †Āudīgu Tsî †Hūhâsib Di †Nūdi

#### 13.1 †Āudīgu

- 13.1.1 !Oe-+Gân di †Hao!nâsi †Gae†guis ge †orodomma †gui †hao!nâsi †āudība kurikorobe nî ūhâ †Ā†gomes ai īs nau xūn hoan †aegu †hūhâsib di †hao!nâbe †āxasigu †haos diga †gai!gai.

#### 13.2 †Nūdi

- 13.2.1 !Oe-+Gân di †Hao!nâsi †Gae†guis ge †orodomma †gui kurikorobe Hoa!nâ-aixa †Nūsa †Ā†gomes ai nî ūhâ.
- 13.2.2 !Oe-+Gân di †Hao!nâsi †Apemā!nans tsî nau kurumâisa †nāugu †hūhâsib digu ge †nākorobe †nūde nî ūhâ om!nâbe †goe †garagu, sîsen!gaugu tsî †gui-aidi hîa †hanumā †garagu †oagu ra kuruhegu †oagu.

- 13.2.3 Gaob/Gaos ge hoa !Hao!nâsi |Apemā!nans di †nûde nî ai†nûba hanas ka nê go lunis ai mîhesa |kharati |lnângu tama kara i soab ai.
- 13.2.4 Danakhoen ge |orodomma |gam †nûra |lîn di |gau ra |hûi†haris !nâ |hûhâsib |kha nî ūhâ tsî Gaob/Gaos tawa hâ nî !nuriba mā.
- 13.2.5 Mâ †nûs hoas nî hâs ai!â i ge |lnā †nûs di †an†ansa |gui |khâb !gau hâ hîa nî †an†anhe xawe daoba xu †oa hâ soagu ai |guis ose, |lîgu hîa !nubu laeb !nâ †an†ansa ra †gaolkhāga.

#### **14|† Artikels: !Nâu Tsî !Khâisa !Khaidi**

- 14.1 Hoa khoen ge !nâu !khaidi !Oe-†Gân xa ra sîsen†amhe !hūs ai hâna !gôasiba nî mā tsî |hobadi Gaogu didi tsîn ona.
- 14.2 Mâ-i ka ī xawe |gau-o!nâ tanisen|gau ge !û†ams ase nî !gapalîhe tsî i ge Gao-e |gaiba ūhâ |gau ra !gôa!gons di †hanumā dā!harode |lnā khoe-i !oagu ūs dide.
- 14.3 !Oe†gâb di luib hîa aboxan di !nâu luib ase |b |lîba xun ge hoa !Oe-†Gâna a !hui ti a †gomsab ge |khara kaikhoen di |gui-i tsēkhom hâ hîa |gui nî †kharohe tsî i ge |lnās |kha |lîn xa aboxan di |khaeba ra †ganhe.

#### **15|† Artikels: !Gamegu**

- 15.1 !Khub di kurusa xu a aore aogu tsî tarare taradi tsîn |guin ge nî !game.
- 15.2 |Am aore aogu tamas kaio |am tarare khoera ge !amegu tide.
- 15.3 Khoe-i hoa-i ge |gui khoe-i |gui-e !gamesa mā-amsa.
- 15.4 Taradi hîa a 18 kurixa di tsî aogu hîa 21 kurixagu ge a !game |Khā.
- 15.5 Gaob/Gaos ge !gamega nî |nau†gā.
- 15.6 |Hûhâsib ra |gari !khais ge tarare khoedi tā xoamûb ‘b’a |lîdi di fangu |ams ai nî sîsenûsa aoresibab ra |gaulgau xui-ao.
- 15.7 Tarare khoes hîa xoamûb (b) a |lîs di fani |ams air a sîsenus ge !Oe†Gân !Hao!nâsi |Hubasib di |Anis ase !noa-e tide.
- 15.8 |Aokhoen a |luse ra !gamehe !gamegu ge †an!gâhe tama hâ hanab ga māsiba |kharati |gaulgau tama kara io.

#### **16|† Artikels: |Omis**

- 16.1 !Oe-†Gân !Hao!nâsi |Hûhâsib di |Omi|gaub |lnā go |lō khoe-i di xūna |goras dîb ge sao rase nî dîhe |lnāti go |lnābe khoe-i ga |gūbas di xoalguiba |lnāxulgui tama kara ī soagu ai:
- 16.1.1 !Game go hâ i aob tamas ka io taras go |lō soab ai – |lo!gauhe go !game-ao-i tsî |gôn ge hoara hus di khoen |lnā |omisa nî hōna.
- 16.1.2 |Guri hâ |gûse go |gôana maba hâ i khoe-i ra |lō soab ai – |gôn |guin ge |lna |omisa a hō |khâ tsî hoan xa †kham-i ge naun hoan xa kai !âsa nî hō.
- 16.1.3 |Gor|ga-aoi ge |gaiba nî uha hoa |goan-ga a †Kham |goa-e kai |omisa ma sa.
- 16.1.4 |Guri go hâ i khoe-i hîa |gôana ūhâ tama-i di |lōb ai – |lî-i di |gûn tamas ka io |lî-i di |gâsan.

- 16.1.5 Aob tsî taras tsîra ga hoalgamse |gui laeb ai kara lō soab ai – |gōan |guin ge lnā |omisa a hō |khā tsî hoan xa †kham-i ge naun hoan hoan xa kai !āsa nî hō.
- 16.1.6 !Game hā tamas ka io !game tama |gū-i ga |gōan hoan |kha kara lō soab ai – hoa laokhoen khoeb tsî khoes di |khāb dîn ge nî |omi.
- 16.1.7 |Gōan ka lîn di |gūn tamas ka io |naosan di kō!gāsa kara lnā!gā soab ai– lnāti |gū-i tamas ka io |naosa-e koro kō!gā khoe-i tsîn ge lnā |omis !nā nî lhao kaihe.
- 16.1.8 16.1.1 tsî 16.1.7 tsîra di soab ai, !gameb !auga ra hōhe |gōan tsî ūbasa |gōan tsîn ge lnāti ī |omis !nā nî !khō†gāhe mā soab hoab ai.
- 16.1.9 |Omisa |gora†uis !nā i ge mû†am ra Dana Danakhoe-e hoa laegu ai nî kōkō tare-i a †hanu-ai tsî |guitilnōbesa, !naes di |gora!gās †hanu-aisib xa aimābahe hāse.
- 16.1.10 |Omis ka dītoahē soab ai i ge Dana Danakhoe-e matis nî |omisa |gora†uihe !khaisa Gaob/Gaosa nî |gau is mā-amsa mā |gora†uis nî hās ai!ā.
- 16.1.11 |Guis ti ra mīhe |omi-i tsîn ge |gora†uihe tide nēti ī mā-ams Gao-e xu hōhe tamas kōse.

## 6!Î Dana!Âs (17–22)

### 17!Î Artikels: !Gaumâis, U!Nâs Tsî Sao!Gâgu!Gaub Gaob Tamas Ka Io Gaos Dis

#### 17.1 Gaob Tamas Ka Io Gaos Di !Gaumâis

- 17.1.1 Gaob/Gaos ge Gao†guis di suriba xu |gui nî |gaumâihe !Oe-†Gân di !Hao!nâsi |Hûhâsib xa |Hûhâsib di †nûs hîa nē |ō-aisa !aromas ai a †gailaesas !nā 4(1) (a) lî Seksis !Hao!nâsi †Gae†guidi di †Hanumās, 2000lî kurib dis (25lî †Hanumās 2000lî kurib dis) |kha |gaelaresa ūhâse.
- 17.1.2 Gaob/Gaos nî |gaumâihes ai!ân ge !Hao!nâsi |Apemā!nans, |Khara Kaikhoen di |Apemā!nans tsî Goreseb di Gao†guis di |Aokhoena lhao tsî |gaumâihe nî khoe-i di |onsa †gailon tsî !Hao!nâsi |Hûhâsib di †Nûsa nî mî-ai!ā is !khō!oahe.

#### 17.2 Ū!Nâs Tsî Sao!Gâgus Gaob/Gaos Dis

##### 17.2.1 Ū!Nâs

- (a) Gaob/Gaos ge lî-i di sîsen-e xu a ūlnâhe |kha lî-i ga !Hao!nâsi †Hanumāsa |khōlkhōsase kara !û†amo.
- (b) |Khōlkhōsase |gau-o!nâse tanisens tamas ka io laekusasis tsî !Oe-†Gân di !Hao!nâsi |Hûhâsib xa |gui tsî 8(1)–(4)lî Seksis !Hao!nâsi †Gae†guidi di †Hanumās, 2000lî kurib dis (25lî †Hanumās 2000lî kurib dis) |kha ra |gause.

### 17.2.2 Sao!Gâgus

- (a) !Hao!nâsi |Apemā!nans tsî |Khara kaikhoen di |Apemā!nans ge Goresen di Gao†guis di |Gâu-arisa nî mǎxō|khā îs soa!gâ ra Gaob tamas ka io Gaosa |gaumâi.
- (b) Sao!gâ ra gao-e kō!nâs !nâ i ge hoalae nēsi ra |gôa Gaob/Gaos di surib nî gaosisa sao!gâ !khaisa kō!gâhe, !gôa!gâhe tsî sao-aihe.
- (c) Gao†guis di |Gâu-aris ge mǎ|khaeba ra Gao-e a |gaumâi |khā Gaob di lōb tamas ka io ūlnâhes khao!gâ, !nona |khâgu di laeb !nâ |khawa a |gamehe |khae laeb !nani |khâgu diba i nî !oabase.

### 18!Î Artikels: !Hao!Nâsi †Gae†Gui-Aon Di |Gaumâis

- 18.1 !Hao!nâsi |Apemā!nans tsî |Khara Kaikhoen di |Apemā!nans tsîra ge Gaob/Gaosa ra |apemā Dana Danakhoen tsî Danakhoen.
- 18.2 Tsinas tsau!nâ†uis !nâ tsî 10(1)(a)–(b)!i Seksis !Hao!nâsi †Gae†guidi di †Hanumās, 2000!i kurib dis (25!i †Hanumās 2000!i kurib dis) |kha !gaelare hâse.

### 19!Î Artikels: !Hao!Nâsi †Gae†Gui-Aona Sîsenga Xu Ū!Nâs

- 19.1 !Hao!nâsi †gae†gui-ao-i !Oe-†Gân |hûhâsib di !gaelaredi di |guis !nâ hâ-i ge nî ūlnâhe hana i ga |î-e kaise |khō|khōsase !Hao!nâsi †Hanumāde nî !û†ams karao,
- 19.2 Kaise au-aise nî |gau-on!nâse tanisens karao tamas ka io kaise laekusao, tsî xawe !Oe-†Gân !Hao!nâsi |Hûhâsib xa |gui.
- 19.3 |Gauo!nâse tanisens di soab xa i ge !Hao!nâsi †Gae†gui-ao-e †Gō|ausi Komitēs Gaob/Gaos xa |na !aromas ai |gaumâihe hâs di |apemās |kha |gui a ū!nahe |khā.

### 20!Î Artikels: Nau !Gae|Ares Di !Am|Aredi

- 20.1 !Hao!nâsi †Gae†guis ge ra mù†am îs hoa !gaelgares di !amlarede kurusa.

### 20.2 †Kham Khoen Di |Hûs

- 20.2.1 †Kham Khoen di |Hûs ge hoa !game tama †kham khoen hîa disihaka|asa (14) xu |gamdisi korola kurixan (25) xa a |lani!nâhe |khā
- 20.2.2 †Kham khoen di |Hûsdi sîsengu ge:
  - (a) În !haosi †ûb tsî !hao!nâsib !Oe-†Gân |Hûhâsib diba ai!gû kai.
  - (b) În !Oe-†Gân |Hûhâsib di marihō†gās di laxasiga lapeba.
  - (c) În !Oe-†Gân |hûhâsiba †nû|khaeba hoa!hao!nâsi |laxasigu !nâ.
  - (d) În nau !haodi di †khamkhoen di |hûdi |kha |hao|haosen tsî sîsenlare.

### 20.3 Taradi Di |Apemā!Nans Ge Nî

- 20.3.1 Taradi di |Apemā!nans ge hoa !Oe†gâ taradi hîa |gamdisi !nani|asa (26) xu korodisi khoesela (59) kurixadi xa a |lani!nâhe |khā.

- 20.3.2 Taradi di |Apemā!nans ge mâ xū-i hoa-i xa Gaob/Gaosa nî |apemā; †kham |gôade hare tsî nî |gau!nâ; |lâudîga ai†homi; tsî |khara taradi di !nandi |kha nî !gaellare kaisen.

## 20.4 |Khara Aogu Di |Apemā!Nans Ge Nî

- 20.4.1 |Khowa-amsa ī hoa !Oe†gâ aogu |gamdisi !nani|a (26) kuriga xu korodisi khoesela kurixagu (59) xa a |ani!nâhe |khāse.  
20.4.2 Hoa xūn †ama Gaob/Gaosa nî |apemā; †kham |gôaga hare tsî |gau!nâ; |lâudîga ai†homi; tsî nau aogu !nandi |kha !gaellare |khā.

## 20.5 |Khara Kaikhoen Di |Apemā!Nans Ge

- 20.5.1 Hoa !Oe†gan di !Hao!nâsi |Hûhâsib di |khara kaikhoen xa a |ani!nâhe |khā hîa !nanidisis (60) xa †kham tamana.  
20.5.2 !Hao!nâsi !gâi tsî tsū xun laegu hâ |goras, harebesa ūhâ xūn tsî |hûhâsib di !nae!khaidi xa Gaob/Gaosa nî †hai†haiba tsî †gae†gui.  
20.5.3 !Oe+Gân !Hao!nâsi †Hanumās xa nî hâse ī |kharalkharadi xa nî hâ †noagu-i hoa-e nî !hoa†harugu.  
20.5.4 Sao!gâ ra Gaob/Gaos di |gaumâis !nâ nî lhao.  
20.5.5 !Gaellaresa nau !hao!nâsi |hûhâsigu |kha !khōlgara.

## 21|Ī Artikels: Tanisen|Gaub

- 21.1 !Hao!nâsi †Gae†gui-aon !Oe+Gân |Hûhâsib din ge hoa laegu ai !Hao!nâsi †Hanumādi |gui-aide |nâulnam tsî nî sao-ai tsî |gui-aidi |hûhâsiba xu a hâ |khādi hoade nî !gôa tsî |nâulnam.  
21.2 !Hao!nâsi †Gae†gui-aon ge mari†ganbasen tamas ka io !oa tamas ka io †gan!gāsase |khae xūna !khō!oa kaisen tide tamas ka io !gâi!gāba dībasen kai tide |nāti huib hîa |lî-i nî |lî-i di sisen|nâsase sisen !khaisa ra !aromaba.  
21.3 !Hao!nâsi †Gae†gui-aon ge !Hao!nâsi †Hanumāsa nî |nâulnam tsî |lîs di khoen tsî hōbēxa-am !oabade khoena nî mā.  
21.4 !Hao!nâsi †Gae†gui-aon ge |lî!nâbe †gom!gâgus tsî !gâi †goms |kha nî sisenlare |lîn ra lhao xūn hoan !nâ huigus, tsî mabagus |kha.  
21.5 !Hao!nâsi †Gae†gui-aon ge hoalae hoa |khāsîgu |kha nî †gōsen |nâ |lî!nâbe |ana!gâgu tsî !nuri!gâgu.

## 22|Ī Artikels: |Ō-Aisa |Gui-Aisa Māsa !Nandi, !Am|Aresa !Nandi Tsî !Gae|Aredi

- 22.1 Gaob/Gaos ge |gaiba nî ūhâ!Oe+Gân !Hao!nâsi |Hûhâsib !nâ |Ō-aisa sî†ui sisen!nandi, sisen!nandi tsî !gaellarede kuru, dana†am tsî mû!gāsa, |lîdi hîa mâ-i ka !khai xawe |lî-e ôa!nâ, ai!gû kai, tamas ka io supusupusa ra |gūbade.

**Ai†Homis, !Khō!Oas Tsî Xoa!Gaos Nē !Hao!Nâsi †Hanumās Dis**

1. !Nae!khaisi †guro ai†homis !Hao!nâsi †Hanumādi !Oe-†Gân di !Hao!nâsi |Hûhâsib didi ge 2007|î kurib di 27|î tsēs !Khanni dis ai !Usakos ai ge hâ.
2. Nē †guro †nûlares ge kō!gâs xa ge saohe tsî |uniga ai†homis ge Usakos ai 2007|î kurib di 24|î tsēs !Khan|gôab dis ai !Usakos ai ge hâ.
3. !Hao!nâsi †Hanumās !Oe-†Gân !Hao!nâsi |Hûhâsib dis ge |ams ai Hoa !Haos di !gae|haos |kha |Â†gomes !nâ ge !khō!oahe tsî Kurikorobe ra hâ Gaob di !Hao!nâsi |Âudîb !nâ ge xoa!gaohe.





**THE LAWS OF THE !O<sub>E</sub>-#GÂN**

## EDITOR'S NOTE

As this book was about to go to the printer, the Human Rights and Documentation Centre (HRDC) of the University of Namibia was approached by some members of the !Oe#Gan community who stated their wish that we not publish the laws of the !Oe#Gan. A letter of a “!Oe#Gan Traditional Community Technical Committee” was addressed to the HRDC, raising the complaint that the “!Oe#Gan Traditional Community ... never had the opportunity to ... [workshop] its customary law nor were they given an opportunity to give input on the current document.” Members of the “Technical Committee” were subsequently received by the HRDC, during which meeting they repeated their complaint. The supreme leader of the !Oe#Gan was invited for a meeting but was not able to attend. However, he confirmed by telephone call his consent to publish the laws as they are stated in this publication.

The HRDC and the Editor of this publication decided after considering the said complaints that they would proceed with publication of the book, but have this Editor's Note for the information of the user of this publication. As stated in the Introduction to this Volume and the Editor's General Note on page viii, it was not the task of the editorial team of this publication to verify the internal process that led to the self-stating of customary law by the various communities. For the editorial team, it was important to be given the duly stamped certificate of consent for publication by the Traditional Authority. It was not shown to the HRDC and the editorial team that the consent received from the !Oe#Gan Traditional Authority under its duly appointed supreme leader was not valid.

This leaves it to the community, as the case may be, to enter into a process of amending or changing the laws as they are stated in this publication, in accordance with the rules of the respective communities and the provisions of the Traditional Authorities Act.

## Chapter 1 (Article 1)

### Article 1: Definitions

In this customary law, unless the context indicates otherwise, –

|                             |                                                                                                                                                             |
|-----------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>ana!gaos</i>             | shall mean the primary legislative assembly of the !Oe-†Gân traditional community                                                                           |
| <i>area of jurisdiction</i> | shall mean the legitimate original governing area of the !Oe-†Gân traditional community                                                                     |
| <i>†ai-am †goab</i>         | shall mean a traditional mat made from goat, sheep or other animal skin                                                                                     |
| <i>customary law</i>        | shall mean the supreme governing law of the !Oe-†Gân traditional community                                                                                  |
| <i>Danakhoen</i>            | shall mean the traditional headmen                                                                                                                          |
| <i>Dana Danakhoen</i>       | shall mean the senior traditional headmen                                                                                                                   |
| <i>Gaob</i>                 | shall mean the male supreme traditional leader of the !Oe-†Gân traditional community designated in accordance with Article 18 of this customary law         |
| <i>Gaos</i>                 | shall mean the female supreme traditional leader of the !Oe-†Gân traditional community designated in accordance with Article 18 of this customary law       |
| <i>gaosarab</i>             | shall mean the official traditional dress of the supreme leader                                                                                             |
| <i>†gâibasen haib</i>       | shall mean the official traditional walking stick of any elderly person                                                                                     |
| <i>†gawas</i>               | shall mean a hat                                                                                                                                            |
| <i>†nû-ai !naos</i>         | shall mean an official traditional wooden chair                                                                                                             |
| <i>†Nûkhoe</i>              | shall mean the original name of the Damara people                                                                                                           |
| <i>!Khē-oms</i>             | shall mean the supreme legislative assembly of the !Oe-†Gân traditional community                                                                           |
| <i>!Oe-†Gân</i>             | shall mean the indigenous clan name for those Damara-speaking Namibians whose ancestors originated from the !Oe-†gâb Mountain and who live in its surrounds |
| <i>Royal House</i>          | shall mean the royal family from which the <i>Gaob</i> or <i>Gaos</i> of the !Oe-†Gân traditional community is designated                                   |
| <i>tsēkhom</i>              | shall mean a ritual activity, usually performed by the oldest male in the family to chase ghosts away                                                       |

## Chapter 2: The Traditional Authority (Articles 2–6)

### Article 2: Name of the Traditional Authority

The name of the Traditional Authority shall be the !Oe-†Gân Traditional Authority.

### **Article 3: !Oe-ǃGân Traditional Authority**

3.1 The authoritative power of the !Oe-ǃGân Traditional Authority shall be vested in the Traditional Council and shall consist of –

- (a) the *Gaob* or *Gaos*
- (b) the *Dana Danakhoen*
- (c) the *Danakhoen*
- (d) the Secretary, and
- (e) other additional members.

### **3.2 Functions and/or responsibilities of members of the Traditional Council**

3.2.1 The Traditional Council<sup>15</sup> shall maintain and administer the day-to-day running of the !Oe-ǃGân Traditional Authority offices in the various constituencies.

#### **3.2.2 *Gaob* or *Gaos***

- (a) The *Gaob* or *Gaos* shall be the respective father or mother figure and traditional head of the !Oe-ǃGân traditional community.
- (b) The *Gaob* or *Gaos* shall promote, uphold, defend and respect the customary law and cultural unity of the !Oe-ǃGân, irrespective of their sex, political affiliation or religious denomination.
- (c) The *Gaob* or *Gaos* shall be the Chairperson of the !Oe-ǃGân Traditional Council.
- (d) All structures shall be accountable to the *Gaob* or *Gaos* in the execution of their duties.
- (e) The *Gaob* or *Gaos* shall appoint Traditional Councillors in terms of Article 19 of this customary law.

3.2.3 The *Dana Danakhoen* and *Danakhoen* shall advise the *Gaob* or *Gaos* in the execution of his/her duties.

3.2.4 The Secretary shall be responsible for all administrative work relating to the Traditional Council.

### **Article 4: Seat of the !Oe-ǃGân Traditional Authority**

4.1 The seat of the !Oe-ǃGân Traditional Authority shall be !Âǃgomes.

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<sup>15</sup> The Traditional Council is the administrative organ of the !Oe-ǃgân Traditional Authority that performs administrative functions.

## **Article 5: !Oe-ǂGân traditional symbols, anthem, flag, language and emblem**

### **5.1 Gaob/Gaos symbols**

5.1.1 The *Gaob* or *Gaos* shall have the following symbols that are designed and/or decorated with the natural resources of the !Oe-ǂGân area:

- (a) ǂ*Ai-am* ǂ*goab*
- (b) *Gaosarab*
- (c) ǁ*Gâibasen haib*
- (d) ǁ*Gawas*
- (e) ǂ*Nû-ai* ǁ*naos*

### **5.2 Anthem**

5.2.1 The !Oe-ǂGân anthem shall be known as the ǂ*Nû* ǁ*Haose Hã re*.

### **5.3 Flag**

5.3.1 The flag of the !Oe-ǂGân traditional community shall be rectangular in a natural deep blue colour.

### **5.4 Language**

5.4.1 The language of the !Oe-ǂGân traditional community shall be ǂNûkhoegowab.

### **5.5 Emblems and coat of arms**

5.5.1 The emblems of the !Oe-ǂGân traditional community shall be the !Oe-ǂgâb Mountain and an eagle.

5.5.2 The emblems shall appear on the !Oe-ǂGân traditional community coat of arms.

## **Article 6: Individual membership**

6.1 A person shall be a !Oe-ǂgâ by –

- (a) residing in the !Oe-ǂGân area of jurisdiction
- (b) being born of an !Oe-ǂgâ parent
- (c) speaking ǂNûkhoegowab with the !Oe-ǂGâ dialect, or
- (d) applying for approval from the !Oe-ǂGân Traditional Authority in accordance with !Oe-ǂGân customary practice.

## Chapter 3 (Articles 7–9)

### Article 7: Legislative authority

- 7.1 The legislative authority of the !Oe-†Gân traditional community shall be vested in the two houses of the !Oe-†Gân Traditional Authority, namely –
- (a) *Ana!gaos*, and
  - (b) *!Khē-oms*.

#### 7.2 *Ana!gaos*

- 7.2.1 This is the primary house where the need to make laws or changes relating to the customs of the !Oe-†Gân shall be introduced.
- 7.2.2 Any proposed bill or amendment to an existing law shall be submitted to the Secretary, who shall at the instruction of the *Gaob/Gaos* invite individuals to serve the house at such sessions.
- 7.2.3 The prepared bill or amendment shall thereafter be submitted to the *!Khē-oms* for approval with or without changes.
- 7.2.4 In cases of disapproval by the *!Khē-oms*, the bill or amendment shall be referred back to the *Ana!gaos* for further deliberations as amended or proposed.

#### 7.3 *!Khē-oms*

- 7.3.1 The final approval of any Bill submitted by the *Ana!gaos* House to become law shall be vested in the *!Khē-oms*.
- 7.3.2 The *!Khē-oms* shall consist of the *Gaob/Gaos*, a minimum of 3 (three) members from the Traditional Authority, and at least 5 (five) elders consisting of men and women, and, if need be, any appointee on the basis of their expertise.

### Article 8: Community laws of the !Oe-†Gân traditional community

#### 8.1 Introduction

- 8.1.1 The customary law of the !Oe-†Gân traditional community has a long-standing history that can be traced back as far as the early 1600s, when our forefathers started grouping themselves under the leadership of a particular leader and by so doing acknowledged the rule of law amongst themselves.
- 8.1.2 Although no written version of such customary law system exists, history tells us that strong guiding rules were adhered to by all.
- 8.1.3 Customary law was the basis on which the interactions of the people were regulated to ensure harmonious living.
- 8.1.4 This customary law shall also provide the framework for rules and procedures for dealing with traditional matters in as far as they do not conflict with the existing laws of the Republic of Namibia.

## 8.2 The laws

### 8.2.1 Application

Nothing contained in this customary law shall be construed as prohibiting the !Oe-ǀGân Traditional Authority from laying a criminal charge with the police, and neither shall the fact that the matter has been reported to the police preclude the !Oe-ǀGân Traditional Authority from taking action against the culprit in accordance with customary law.

#### 8.2.2 The following shall be regarded as offences with applicable measures and fines:

- (a) Theft
  - (i) Stealing someone's property shall be prohibited.
  - (ii) Any person reported stealing shall be summoned to appear before the Community Court.
  - (iii) If the suspect is found guilty of theft, he or she shall pay double the value of the stolen item.
  - (iv) If the item is recovered, only half of the item's value shall be paid.
  - (v) In cases where someone is found with stolen goods whose owner is unknown, the Traditional Council shall open a case against the suspect.
- (b) Murder and culpable homicide

Both murder and culpable homicide shall be serious criminal offences, and the convicted person shall pay compensation in the form of livestock or cash as determined by the Community Court.
- (c) Assault
  - (i) Any form of physical bodily harm to anyone or an attempt to that effect, shall be deemed a criminal offence and the suspect shall be summoned to appear before the Community Court.
  - (ii) The injured person shall be referred to the doctor, clinic or hospital for a medical examination and a medical report before the Community Court can pronounce itself on the matter.
  - (iii) In cases where a person loses the use of one or other part of the body due to assault, the following fines and/or compensation shall apply:
    - (aa) Ear – N\$1,000 (one thousand Namibia Dollars)
    - (bb) Eye – N\$5,000 (five thousand Namibia Dollars)
    - (cc) Nose – N\$1,000 (one thousand Namibia Dollars)
    - (dd) Lip – N\$1,000 (one thousand Namibia Dollars)
    - (ee) Tooth – N\$500 (five hundred Namibia Dollars)
    - (ff) Tongue – N\$5,000 (five thousand Namibia Dollars)
    - (gg) Finger – N\$2,500 (two thousand five hundred Namibia Dollars)
    - (hh) Hand – N\$5,000 (five thousand Namibia Dollars)
    - (ii) Arm – N\$5,000 (five thousand Namibia Dollars)
    - (jj) Leg – N\$5,000 (five thousand Namibia Dollars)
    - (kk) Breast – N\$5,000 (five thousand Namibia Dollars)
    - (ll) Open wound – N\$1,000 (one thousand Namibia Dollars)

- (iv) The above monetary value may also be taken into account in valuing livestock for compensation purposes.
- (d) Rape
  - (i) Rape shall be a serious offence because it causes serious psychological trauma to the victim.
  - (ii) Compensation of not less than N\$5,000 (five thousand Namibia Dollars) or the equivalent value in livestock shall therefore be paid to the victim.
- (e) Domestic violence
  - (i) Any form of domestic violence, whether physical, emotional or economic, shall be reported to the traditional leader.
  - (ii) A minimum fine of N\$1,000 (one thousand Namibia Dollars) shall apply to the culprit.
- (f) Impregnation
  - (i) Impregnation of a minor girl under the age of 18 (eighteen), with or without her consent, shall be deemed an offence.
  - (ii) The man shall pay a maximum compensation of N\$10,000 (ten thousand Namibia Dollars) to the girl's parents and shall be responsible for her further education costs if she was school-going.
- (g) Adultery
  - (i) Adultery shall be regarded as an offence which destroys sound marital relationships within any given society; it shall be condemned, and it shall be dealt with by the Community Court.
  - (ii) Any person found guilty of having committed adultery shall pay a minimum fine of N\$1,000 (one thousand Namibia Dollars).
- (h) Indebtedness
  - (i) A person to whom something is owed by another shall be prohibited from taking the law into his/her own hands when promises to settle the debt are not kept, and shall instead report the matter to the Community Court for an appropriate amicable resolution.
  - (ii) The Court may order repayment with or without interest at 10% (ten per cent) per annum from the date the debt became payable.
- (i) Illegal hunting
  - (i) Hunting on communal land without a valid permit shall be prohibited.
  - (ii) Hunting permits shall first be obtained from the Ministry of Environment and Tourism in conjunction with the Traditional Authority.
  - (iii) Any person found guilty of hunting on communal land without a valid permit shall be fined N\$1,000 (one thousand Namibia Dollars).
- (j) Arson
  - (i) Any person intentionally or negligently setting fire to another person's property or grazing land and thereby causing damage to or the loss of such property or land shall be deemed guilty of arson.
  - (ii) A minimum fine of N\$5,000 (five thousand Namibia Dollars) shall apply to the culprit.



- (k) Bribery
  - (i) Any person who offers payment in cash or in kind to any member of the traditional community with a view to concealing his/her wrongdoing shall be guilty of an offence.
  - (ii) The person found guilty of having received such payment shall equally be charged with an offence.
  - (iii) A minimum fine of N\$1,000 (one thousand Namibia Dollars) shall apply to the guilty parties.
- (l) Abortion and baby dumping
  - (i) Any woman aborting her pregnancy or attempting to do so or dumping her newborn baby, or any person assisting such woman with an abortion or with dumping a newborn baby shall be guilty of an offence.
  - (ii) A minimum fine of N\$5,000 (five thousand Namibia Dollars) shall apply to the guilty party.
- (m) Accusation
  - (i) Every community member shall have the right to be respected and to live in harmony with others.
  - (ii) Anyone who falsely accuses another person and, by so doing, harms the reputation and dignity of that person shall be liable to a minimum fine of N\$500 (five hundred Namibia Dollars).
- (n) Refusal
 

Any person failing to honour any court order such as to attend a court hearing, to testify in court proceedings or pay a court fine, or any person who gives false testimony, shall be criminally charged for contravening the Community Courts Act, 2003 (No. 10 of 2003).
- (o) Appeal
  - (i) The Appeal Tribunal shall consist of the *Gaob/Gaos* and 2 (two) elders appointed by the *Gaob/Gaos* from the !Oe-#Gân traditional community and, in some cases, from qualified legal practitioners.
  - (ii) Any person who feels aggrieved by a judgement, conviction or sentence delivered by the Community Court shall have the right to lodge an appeal to the Appeal Tribunal within 30 (thirty) days after such judgment, conviction or sentence.
  - (iii) The Presiding Judge of the Community Court shall, within 14 (fourteen) days from receipt of the notification of appeal, submit such appeal to the Tribunal, stating the reasons of judgment and providing minutes of the proceedings.
  - (iv) The Tribunal may uphold or set aside the decision of the court a quo.

## Article 9: Community Court and court procedures

### 9.1 Community Court

9.1.1 In terms of sections 2(3) and 4(1) of the Community Courts Act, the civil and

criminal jurisdiction shall respectively be vested in the Community Courts of the recognised and established !Oe-ǀGân Traditional Authority, provided that there is no conflict with the provisions of the of the Act.

- 9.1.2 The Community Court shall have the power to hear, investigate and settle disputes over any matter between the members of the !Oe-ǀGân traditional community.
- 9.1.3 In certain cases, the Community Court shall also play the role of mediator and shall ensure reconciliation.
- 9.1.4 The Community Courts shall be independent, and shall apply the law impartially without favour, fear or prejudice.
- 9.1.5 Interference by any person in the functions of the Community Court shall be prohibited.
- 9.1.6 The *Gaob/Gaos* shall appoint the Community Court justices, assessors, clerks, messengers and interpreters.

## **9.2 Court procedures**

- 9.2.1 The proceedings in Community Courts shall be strictly in accordance with the provisions of sections 19–22 of the Community Courts Act.

# **Chapter 4 (Articles 10–12)**

## **Article 10: Land, water management and control, grazing and animals**

### **10.1 Land ownership**

- 10.1.1 The !Oe-ǀGân traditional community shall have the right to individually or collectively own, control and use their communal land, which includes the management of resources; the exploration, development and management of existing and other resources; and the management of plants, animals and sacred places such as graves and spiritual institutions.
- 10.1.2 All communal land over which the !Oe-ǀGân Traditional Authority has jurisdiction shall be used mainly for agricultural purposes unless otherwise prescribed.
- 10.1.3 The !Oe-ǀGân traditional community shall have the right to benefit materially, financially and in other ways from the use of their traditional land.

### **10.2 Land allocation**

- 10.2.1 Traditional Authorities shall, on behalf of the President of the Republic of Namibia, be the custodians of the land in communal areas, which belongs to the State under the Communal Land Reform Act, 2002 (No. 5 of 2002).
- 10.2.2 Land allocation and management, whether it is for grazing, residential, business or any other purpose, shall therefore be dealt with by the Traditional Authority in terms of the Communal Land Reform Act.

### **10.3 Water management and control**

- 10.3.1 The proper management and control of water resources is essential in order to secure the future survival of the people, animals and the entire environment.
- 10.3.2 Every community member shall, therefore, have the absolute duty to take care of the community's water points and shall not be involved in acts which shall not actively or potentially disturb the healthy and free use of water.
- 10.3.3 Any intentional waste of water shall be prohibited and shall be punishable.
- 10.3.4 Every community member shall be obliged to pay the relevant fees for his/her water consumption.
- 10.3.5 Failure to adhere to the requirement to pay for water consumption shall be reported to the traditional leader of the area concerned.
- 10.3.6 However, no community shall unreasonably refuse to assist fellow farmers in need of water for domestic or animal use.

### **10.4 Animals**

- 10.4.1 Animals, whether wild or domestic, including birds, shall be protected as they are indispensable parts of the community's livelihood.
- 10.4.2 Any irresponsible act affecting animals or physical harm inflicted on animals shall be deemed as disrupting the balance of the ecosystem and shall be condemned.

#### **10.4.3 Loss of livestock or other animals**

- (a) All cases of lost animals shall be reported to the traditional leaders in the area concerned, who will announce the matter on the radio services to inform the public.
- (b) Changing the brand mark on a lost animal shall be prohibited and shall be punishable in the Community Court.
- (c) If the owner of any lost animal is not found within 3 (three) days, the person or the community who have been taking care of the said animal shall take it to the Traditional Councillor for a declaration of ownership.
- (d) If the animal's owner comes forth after 3 (three) years, any newly bred livestock shall belong to the caretaker who reported the case and looked after the lost animal.
- (e) Any person who finds a lost animal but fails to report such loss shall not be afforded any of the rights conferred in this section.

### **10.5 Grazing**

- 10.5.1 Except for the residential portion of a communal farm, the remaining demarcated land shall be used for grazing by all the lawful residents of such farm, unless portions are clearly and lawfully divided with fencing.
- 10.5.2 Grazing land shall be protected from harm, including damage by veld fires.

- 10.5.3 Anyone causing damage to grazing land, including causing a veld fire, shall be prosecuted.

### **Article 11: Assets**

- 11.1 The !Oe-ǀGân Traditional Authority shall have the right to acquire, purchase, lease, sell, or otherwise hold or dispose of movable and immovable property on behalf of the community in terms of section 18(1) of the Traditional Authorities Act, 2000 (No. No. 25 of 2000).
- 11.2 All immovable and movable property of the community shall be under the direct control and management of the !Oe-ǀGân Traditional Authority.

### **Article 12: Community Trust Fund**

- 12.1 The !Oe-ǀGân Traditional Authority shall establish a Community Trust Fund for the benefit of the traditional community in terms of section 18(3) of the Traditional Authorities Act.

## **Chapter 5 (Articles 13–16)**

### **Article 13: Festivals and community meetings**

#### **13.1 Festivals**

- 13.1.1 The !Oe-ǀGân traditional community shall have at least 1 (one) traditional festival a year in ǀĀǀgomes in order to promote sociocultural activities, among other things.

#### **13.2 Meetings**

- 13.2.1 The !Oe-ǀGân traditional community shall have at least 1 (one) annual general meeting at ǀĀǀgomes.
- 13.2.2 The !Oe-ǀGân Traditional Council and other structures within the community shall have regular meetings in accordance with the internal standing rules, procedures and orders, determined through regulation.
- 13.2.3 The *Gaob/Gaos* will chair all Traditional Council meetings unless otherwise resolved by the latter.
- 13.2.4 Traditional Councillors shall have at least two meetings in their respective constituencies with the community, and shall report back on such meetings to the *Gaob/Gaos*.
- 13.2.5 The notice period of all meetings shall be a minimum of 1 (one) month, except in extraordinary cases, which may require a shorter notice period.

## Article 14: Sacred and prohibited sites

- 14.1 All persons shall be bound to respect sacred sites and graves, including those of the late *Gaob/Gaos* in the !Oe-†Gân areas of jurisdiction.
- 14.2 Any disrespectful practices at such sites and graves shall be deemed an offence in terms of which the *Gaob/Gaos* shall have the power to take legal action against the culprit.
- 14.3 The !Oe†gâb Mountain, being the ancestral sacred site regarded as the origin of the !Oe-†Gân, shall only be climbed after an elder has performed the *tsêkhom* ritual and, by so doing, has requested the blessings of the ancestors.

## Article 15: Marriage

- 15.1 Only a natural man and woman shall be permitted to marry each other.
- 15.2 Therefore, persons of the same sex shall be prohibited from marrying each other.
- 15.3 Only monogamous marriages shall be allowed.
- 15.4 The marrying age for a woman shall be over the age of 18 years, and for a man it shall be over the age of 21 years.
- 15.5 The *Gaob/Gaos* shall solemnise traditional marriages.
- 15.6 It shall be a community sanction for a woman to use a letter *b*, which indicates masculinity, at the end of her surname.
- 15.7 A woman who uses the letter *b* at the end of her surname shall not be regarded as a member of the !Oe†Gân traditional community and she shall not be considered for !Oe†Gân organisational or management activities,
- 15.8 Marriage entered into without the family of both parties' knowledge or consent shall not be recognised unless the situation provides otherwise.

## Article 16: Inheritance

- 16.1 The !Oe-†Gân traditional community procedure for distributing a deceased person's estate in cases where such person dies without leaving a valid will shall be as follows:
  - 16.1.1 In the case of the death of a married person's husband or wife, the surviving spouse and children shall be the sole beneficiaries of the deceased estate.
  - 16.1.2 In the case of the death of a single parent with children, only the children shall inherit the deceased estate, with the youngest receiving the biggest share.
  - 16.1.3 The presiding officer shall have the discretion to determine the biggest share to be distributed to the youngest child of a deceased single parent, depending on the value of the estate.
  - 16.1.4 In the case of the death of a person without children, his/her parents or, failing them, his/her siblings shall inherit the deceased estate.
  - 16.1.5 In the case where both the husband and wife die simultaneously, their children will be the beneficiaries with the youngest receiving the biggest share.
  - 16.1.6 In the case where single or married parent and children die simultaneously, both maternal and paternal families will be the beneficiaries.

- 16.1.7 In the case where the children have abandoned the care of their parents or grandparents, the person who has been personally taking care of such parents or grandparents shall also be considered as a beneficiary of the deceased estate.
- 16.1.8 In the case of sub-articles 16.1.1 to 16.1.7 above, children born outside marriage and adopted children shall be regarded as having equal rights as natural children for the purpose of distribution of a parent's estate.
- 16.1.9 In deciding the distribution of a deceased estate, the presiding Senior Traditional Councillor shall always consider what is just and equitable, and shall be guided by natural justice.
- 16.1.10 After the distribution in a deceased estate has been determined, the Senior Traditional Councillor shall submit it to the *Gaob/Gaos* for approval before the final distribution is executed.
- 16.1.11 No estate shall be distributed unless such distribution has been duly approved by the *Gaob/Gaos*.

## **Chapter 6 (Articles 17–22)**

### **Article 17: Designation, removal and succession of the *Gaob/Gaos***

#### **17.1 Designation of the *Gaob/Gaos***

- 17.1.1 The *Gaob/Gaos* shall be designated from the royal bloodline exclusively by the !Oe-†Gân traditional community at a community gathering convened for this particular purpose and in accordance with section 4(1)(a) of the Traditional Authorities Act.
- 17.1.2 Prior to the designation of the *Gaob/Gaos*, the Traditional Council, the Council of Elders and the members of the Goreseb Royal House shall meet to nominate a candidate for submission to the traditional community gathering for approval.

#### **17.2 Removal and succession of the *Gaob/Gaos***

##### **17.2.1 Removal**

- (a) The *Gaob/Gaos* may be removed from office if s/he has grossly violated customary law, has been guilty of serious misconduct, or is unfit to hold office due to ill health.
- (b) The right to remove the *Gaob/Gaos* from office shall rest solely with the !Oe-†Gân traditional community, and shall be exercised in accordance with section 8(1)–(4) of the Traditional Authorities Act.

##### **17.2.2 Succession**

- (a) The Traditional Council and Council of Elders shall assist the Goreseb Royal House in the process of selecting a successor to the incumbent *Gaob/Gaos*.

- (b) In selecting a successor to the incumbent *Gaob/Gaos*, the continuation of the Royal House bloodline of the incumbent shall be observed, respected and followed at all times.
- (c) The Royal House shall appoint an Acting *Gaob/Gaos* after the death or removal of an incumbent *Gaob/Gaos* within a period of 3 (three) months, for one renewable period of 6 (six) months, after which a permanent incumbent shall be appointed in accordance with due procedure and law.

## **Article 18: Appointment of traditional leaders**

- 18.1 The Traditional Council and the Council of Elders shall advise the *Gaob/Gaos* in his/her selection of Senior Traditional Councillors and Traditional Councillors.
- 18.2 Such selection shall be in accordance with section 10(1)(a)(b) and (2) of the Traditional Authorities Act.

## **Article 19: Removal of traditional leaders from office**

- 19.1 Any traditional leader in the structures of the !Oe-ǀGân traditional community shall be removed from office if s/he grossly violates customary law, is found guilty of serious misconduct, or is unfit to hold office due to ill health.
- 19.2 In the case of a traditional leader's removal from office due to a gross violation of customary law or being unfit for office due to ill health, the right of removal shall rest solely with the !Oe-ǀGân traditional community, and shall be exercised in accordance with the Traditional Authorities Act.
- 19.3 In the case of a traditional leader's removal from office due to misconduct, the right of removal shall rest solely with the *Gaob/Gaos*, and shall be exercised in accordance with the Traditional Authorities Act.

## **Article 20: Other organisational structures**

- 20.1 The Traditional Authority shall ensure the establishment of all organisational structures.

### **20.2 Youth League**

- 20.2.1 The Youth League shall be open to all unmarried young persons between the ages of fourteen (14) and twenty-five (25) years.
- 20.2.2 The functions of the Youth League shall be to –
  - (a) promote the culture and tradition of the !Oe-ǀGân traditional community
  - (b) organise income-generating activities within the community
  - (c) represent the !Oe-ǀGân traditional community in any cultural event, and
  - (d) contact and network with youth groups from other communities.

### **20.3 Women's Council**

- 20.3.1 The Women's Council shall be open to all !Oe-†gâ women between the ages of 26 (twenty-six) and 59 (fifty-nine) years.
- 20.3.2 The Women's Council shall advise the *Gaob/Gaos* on any matter, shall recruit and educate young boys and girls, and shall organise festivals and networking opportunities with other groups.

### **20.4 Men's Council**

- 20.4.1 The Men's Council shall be open to all !Oe-†gâ men between the ages of 26 (twenty-six) and 59 (fifty-nine) years.
- 20.4.2 The Men's Council shall advise the *Gaob/Gaos* on any matter, shall recruit and educate young boys and girls, and shall organise festivals and networking opportunities with other groups.

### **20.5 Council of Elders**

- 20.5.1 The Council of Elders shall be open to all male or female elders from the age of 60 (sixty) years.
- 20.5.2 The Council of Elders shall enlighten and guide the *Gaob/Gaos*, the traditional community and especially the youth in respect of the cultural norms, values and history of the !Oe-†Gân traditional community at large.
- 20.5.3 The Council of Elders shall mediate in any dispute concerning changes to be made to the !Oe-†Gân customary law.
- 20.5.4 The Council of Elders shall participate in and offer advice in respect of the selection of a successor to the incumbent *Gaob/Gaos*.
- 20.5.5 The Council of Elders shall maintain contact with elders from other traditional communities.

## **Article 21: Code of conduct**

- 21.1 The traditional leaders of the !Oe-†Gân traditional community shall at all times respect and comply with the provisions of the customary law and any directive that emanates from the said community.
- 21.2 The traditional leaders shall not directly or indirectly solicit or receive any gift or favour that may influence the exercise of their functions.
- 21.3 The traditional leaders shall be loyal to the !Oe-†Gân customary law and the !Oe-†Gân people and shall provide effective services to the traditional community.
- 21.4 The traditional leaders shall cooperate in trust and good faith by assisting, informing and supporting one another in respect of matters of common interest.
- 21.5 The traditional leaders shall by all means avoid instituting legal proceedings against each other.



**Article 22: Establishment of special commissions, committees and institutions**

- 22.1    The *Gaob/Gaos* shall have the power to establish, control and observe special commissions, committees and institutions in the !Oe-†Gân traditional community to investigate, promote or facilitate any matter of concern within the community.

**Adoption, approval and drafting of customary law of the !Oe-†Gân Traditional Authority**

1.      The customary law of the !Oe-†Gân Traditional Authority was first adopted on 27 January 2007 in Usakos.
2.      The first adoption of the customary law was followed by the first meeting/consultation and the final adoption of the customary law was done on 24 February 2007 in Usakos.
3.      The customary law of the !Oe-†Gân Traditional Authority was approved by the entire community in !A†gomes (Okambahe) and was endorsed/signed by the Chief during the annual festival.

## CERTIFICATE OF CONSENT TO PUBLISH

### UNIVERSITY OF NAMIBIA

### FACULTY OF LAW

### HUMAN RIGHTS AND DOCUMENTATION CENTRE

#### RE: CONSENT TO PUBLICATION

I, the undersigned, Chief of the !OE ǀGǀAN Traditional Authority, hereby give consent to the Human Rights and Documentation Centre, to publish the following documents of the !OE ǀGǀAN Traditional Authority:

1. The Customary Laws
2. The Community Profile
3. Picture of the Chief
4. Logo of the Traditional Authority

I acknowledge that the Human Rights and Documentation Centre will publish the laws in our indigenous language (ǀNǀukhoie), as well as the English language. I am familiar with the contents of the laws that will be published and further acknowledge that they were prepared by my traditional authority.

Signed on this 26 day of JUNE 2012.

At WINDHOEK.  
Gauseb.

Chief

Gauseb

For HRDC: A. Gauseb

!OE ǀGAN TRADITIONAL AUTHORITY  
/ǀ- ǀGOMB (OKOMBAHE)  
CHIEF IMMANUEL ǀNU-AXA /ǀASEB  
P. O. Box 21164 WINDHOEK, NAMIBIA  
Tel. 064-261861

**THE ꞤAODAMAN TRADITIONAL AUTHORITY**  
**ꞤAODAMAN DI !HAO!NÂSI ꞤGAEꞤGUIS**



The supreme leader of the †Aodaman traditional community  
is *Gaob*<sup>1</sup> Ukongo Petrus.

Date of designation: 28 February 2008



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1 Traditional title in terms of section 11, Traditional Authorities Act, 2000 (No. 25 of 2000).

## INTRODUCTORY NOTE

This Profile and the customary laws which follow it were provided by the †Aodaman Traditional Authority with inputs from the incumbent Chief Petrus Ukongo; Mr Festus !Aseb, a Councillor of the †Aodaman Traditional Authority; and many others.

In respect of other sources, considerable literature was consulted, including the minutes of the meetings of the Damara Council Executive Committee as well as *Official Gazette* No. 1300 of 1 September 1972, issued by the then Department of Bantu Administration and Development, mainly in terms of the creation of what was then known as the Damaraland District, the subdivision of Damaraland into Wards, and the rules of engagement for the election of traditional leaders.

The 18 October 1985 issue of the former local Afrikaans daily, *Die Suidwester*, and oral historical accounts presented during the Annual Cultural Festival of the †Aodaman traditional community by Festus !Aseb also provided invaluable background information. This included information on the habitat of the †Aodaman; aspects regarding the origin and history of the Damara, including the †Aodaman; and the precolonial, colonial and post-colonial leaders of the †Aodaman traditional community in Namibia. This was supplemented by information on encounters between various †Aodaman subclans and other communities resident in Namibia after the †Aodaman and various San groups had settled in the area.

In addition, piecemeal documentation with recorded discussions between members of the †Aodaman on how law and order was and is maintained in the community contributed immensely towards the finalisation of the texts presented here.

Furthermore, the Namibian Constitution, the Criminal Procedures Act, 1977 (No. 51 of 1977), the Council of Traditional Authorities Act, 1997 (No. 13 of 1997) and the Traditional Authorities Act, 2000 (No. 25 of 2000) served as the legal instruments against which the provisions of the sentences and fines applicable in cases dealt with by the †Aodaman community court were given a moral judgment.

The verbal accounts on the history of the Damara people by the Paramount Chief of the Damaras, *Gaob* !Uruhe Justus !Garoeb, as well as those by Axasi Hans †Eichab, are also acknowledged.

The late Acting Paramount Chief of the Damaras, Rev. Eliphas Eiseb, once stated that no historical records had been written by a Damara person since too many knowledgeable Damara-speaking persons, instead of writing their own account of the history, preferred to wait until someone else attempted it – whereupon they would try to discredit the efforts of such an individual through questioning what s/he had written. In view of the aforementioned, the author would welcome constructive criticism from Damaras in general, and the †Aodaman in particular, to expand on this humble attempt.

## PROFILE

### 1. Name and language of the †Aodaman traditional community

This traditional community is known as †Aodaman (†Aokhoen).

Whenever they are asked about their ethnological affinity, the Damara communities/people,<sup>2</sup> including the †Aodaman, always answer “†*Nukhoe da ge*”. Linguistically, the word †*nukhoe* consists of the adjective †*nu* (“black”) and the noun *khoe* (“person”, “human being”). Although this could (incorrectly) be interpreted as “I am a black person/human being”, some argue that the term would then apply to each and every black Namibian or black African – much like the term *Bantu* refers to any person indigenous to central or southern Africa. However, the †Aodaman and the other Damaras have always claimed a particular historical origin and meaning for the term †*Nukhoe da ge*.

As far back as the Early and Middle Stone Ages, when the Damara communities/people already inhabited some parts of southern Africa as hunter-gatherers, the San groups – namely the Khoe, the Hailom, the !Kung and Naro were the only light-skinned people with whom the †Aodaman shared land and with whom the Damara communities/people coexisted and ‘interbred’, so to speak.

The San were referred to by the Damara communities/people as !Hunikhokhoen (“yellow-skinned people”). During the late Stone Age, the Nama entered the scene; the Damara communities/people referred to them as !Apakhoen (“red-skinned people”).

Since both the San and the Nama used tongues that were alien to the Damara communities/people, they referred to them jointly as Nama ra khoen (“the people who speak a foreign language”). When the Damaras say that they speak †Nūkhoegowab, they mean that they speak the language of the Damara people.

There are, however, significant sociolinguistic differences amongst the varieties of †Nūkhoegowab spoken by the Damaras, both in terms of vocabulary and pronunciation. This is as a result of the diverse socio-economic activities and features in their immediate environment, as well as cohabitation with non-†Nūkhoegowab-speaking communities and the subsequent acculturation and/or assimilation that brings about different cultural practices and language use. Hence, the †Aodaman are no exception to the rule when it comes to having their own language variety.

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2 The term *Damaras* should be understood to include the †Aodaman; if only the †Aodaman are referred to, this will be stated overtly.

## **2. Seat**

The seat of the ǀAodaman Traditional Authority shall be at Aroxa-aibes (Inhoek Post No. 42) in Namibia's Kunene Region, with sub-offices located in different constituencies in various other Regions of the country, in order to bring services closer to the members of the ǀAodaman community in the diaspora.

## **3. Flag**

The flag of the ǀAodaman shall be green, emblazoned with white dots, with the guinea fowl as a symbol/totem.

## **4. Traditional village and cultural heritage site**

Navarre Post in Namibia's Kunene Region is a ǀAodaman Traditional Village and Cultural Heritage Site. This is where the ǀAodaman community preserves its literary and other artistic works, and where they perform traditional ceremonies and functions.

## **5. Origin, history and place of residence of the ǀAodaman**

- 5.1 Since time immemorial, before the Nama peoples migrated into south-western Africa into what is Namibia today, and before the arrival of the Bantu groups from North and East Africa, the Damara peoples lived in south-western Africa.
- 5.2 It is speculated that the ancestors of the Damara communities/people came to Namibia from ǀKhaus (the equatorial jungle) and ǀAkhaǀkhib (Angola) centuries ago.
- 5.3 The ǀAodaman settled between the Huriǀnaub (Kunene River) and ǀGulab (Kavango River) before entering what was many centuries later known as ǀNaweǀhub (Owamboland).
- 5.4 Mount Etjo, the Parases Mountains, the Waterberg Mountains, the Brandberg and the Otavi Mountains border the areas inhabited by the ǀAodaman in the south.
- 5.5 The community's northern border is formed by the ǀHoanib River in the west and the northern boundary of the Etosha National Park.
- 5.6 The eastern border of the ǀAodaman ancestral lands is the Kalahari Desert, which continues to be inhabited by various San, Ovaherero and Tswana communities in Namibia and present-day Botswana.
- 5.7 As places where they were born and bred, the majority of today's generation of adult ǀAodaman living in what was then Damaraland (part of the Kunene Region today) identify themselves mostly with farms like Otjikondo, Mem, Apes, Saratogas [sic], Naraxa-ams, Westfallen [sic], Otjitambi, ǀKhairos, ǀApaharos, Tsaurob (ǀGanebpos), ǀNams and ǀNubes, but mainly with Aroǀhub, which is the area bordering around and including Etosha.
- 5.8 The following present-day farms, as reflected in section 3 of the Damara Community and Regional Authorities and Paramount Chief and Headmen

- Ordinance 2 of 1986, as well as in the Communal Land Reform Act, 2002 (No. 5 of 2002), formed and still make up the residential areas of the †Aodaman, namely (in alphabetical order) Anker (Farm No. 602), Annabis (Farm No. 677), Braunfels (Farm No. 387), Condor (Farm No. 617), Deo Volento [sic] (Farm No. 610), Dwarstrek (Farm No. 611), Eastwood (Farm No. 73), Emmanuel (Farm No. 613), Engelbrecht (Farm No. 272), Fransfontein (Farm No. 6), Gainatseb (Farm No. 67), Kranspoort (Farm No. 475), Löwenfontein (Farm No. 84), Marienhö (Farm No. 639), Quo Vadis (Farm No. 625), Renosterkop (Farm No. 389), Smalruggens (Farm No. 684), Spitskop (Farm No. 678), Stillewoning (Farm No. 386), Swartskamp (Farm No. 640), Tevere (Farm No. 643), Tsumamas (Farm No. 74), Waterbron (Farm No. 623), Waterval (Farm No. 384), †Aub (Farm No. 683), †Gam‡garub (Farm No. 269), †Khoandawes (Farm No. 645), and all the land in the Grootfontein, Kamanjab, Khorixas, Otavi, Outjo and Tsumeb Districts.
- 5.9 When the German colonisers occupied Namibia, some †Aodaman ancestral lands were taken away from them, especially that lying between Kamanjab and Outjo, which is the area that the †Aodaman refer to as Aro!hub.
- 5.10 Furthermore, the †Aodaman lost many hectares of their ancestral lands, e.g. †Gam‡garub (Gamkarub, Farm No. 269), as a result of the partitioning recommended by the Odendaal Commission mostly for the resettlement of Afrikaner families from Humpata in Angola.
- 5.11 The then Administration of the Namas, the pre-Independence second-tier authority, purchased Eastwood (Farm No. 73), Gainatseb (Farm No. 67), Kranspoort (Farm No. 475) and Tsumamas (Farm No. 74) in Damaraland, Registration Division A, situated in the District of Outjo, for the settlement of the †Khaulgoan (the Swartboois). These areas, including Fransfontein (Farm No. 6), which could not be purchased, are without doubt inalienable parts of the †Aodaman traditional community's ancestral land.

## 6. Encounters by the †Aodaman with later settlers in the same area

- 6.1 It is said that the hunters of †Nurul‡gamaib, †Ai!ommi and †Galnommi were the first to have seen and spoken of strange-looking men (who, it later transpired, were scouts and hunters) advancing from †A‡khib (Angola) near Urixorobes ("the place where iron was dug for", now known as Cassinga), towards †Ga-ams, the area inhabited today by Owambo communities.
- 6.2 The first encounter between the †Aodaman hunters of *Gaob* †Nurul‡gamaib, *Gaob* †Ai!ommi and *Gaob* †Galnommi and present-day Owambo communities reportedly took place at †Khaikariloms (Magugu) where violent encounters ensued. Some of the †Aodaman who surrendered or were captured by force were assimilated into the Uukwaludhi, Ongandjera, Uukwambi, Uukwanyama and Ondonga.
- 6.3 The well-known †Nawe (Owambo) leaders and or hunters whom the †Aodaman encountered included a certain Adogab (Andonga), Kambugub (Kambungu), Kaneneb (Kanene), and Sige‡nub (Sitenu).
- 6.4 The Owambo clans that settled near †Khaikariloms (Magugu) included the following:



- (a) Gomaxan – the Cattle Clan (*Ovakwanangombe*)
  - (b) Haikurun – the Woodcutter Clan (*Ovakwahongo*), and
  - (c) †Goareben – the Zebra Clan (*Ovakwahiwala*).
- 6.5 The Hailom, Tu†gaben and †Nurulgammen lived in peace and harmony with the new arrivals for some time.
- 6.6 However, the peace was shattered when the hunter-leader Kanene (Kaneneb) attacked †Aodaman settlements at †Om†nuis (“the place where one can take a rest”) and Gomlos (“place where people died for the sake of cattle”), also known as Hakafia.
- 6.7 A considerably large number of †Aodaman who lived in the area south-west of †Khoeob (Okaukuejo) and to the east of Gama†hab (Kamanjab) at Gauas (Farm No. 30), Xaudamas, †Nams (Sydburg Farm No. 246) and †Nubes (Nubes, Farm No. 32) witnessed the arrival of the immigrant †Gin (Ovaherero) who settled at †Anhes (Otjitambi).
- 6.8 Some descendants of the Ovambanderu clans who arrived there then under the leadership of Mutjise, son of Mbunga, son of Tjituka, son of Kengeza, still live in that vicinity with the †Aodaman today, namely the Katua, Kavari, Marenga and Mundjuua families.
- 6.9 Other peaceful settlement areas were at †Ubab (Palafontein, Farm No. 158), †Gawatabes and †Ubara†gaus (Etoshapoort, Outjo), †Gam†garub (Gamkarub, Farm No. 269) Hotsaus, Farm No. 465), Tsobas (Tsobas Farm No. 218) and †Oenitsaub (†Oenitsaub Farm No. 37), an area that an amalgamation of †Aodaman–†Gaiodaman have inhabited for centuries.
- 6.10 During the era of the German colonial occupation, starting from around 1896, there was also an influx of a large number of impoverished Afrikaner farmer families, descendants of the Dorslandtrekkers<sup>3</sup> who had travelled through the †Gobabes (Gobabis) area in the early 1870s from the by then defunct Upingtonia Republic in southern †A†khib (Angola).
- 6.11 Vaalblok (Vaal Block),<sup>4</sup> an area of land reserved for these Angolan settlers in the †Aodaman territory, was situated in the Kamanjab–Otavi–Outjo triangle.
- 6.12 The settlers initially arrived from Tsuob (Outjo) and moved on to †Gam†garub (Gamkarub, Farm No. 269).
- 6.13 Thereafter, individual settlers got farmland in the entire Vaalblok area, and a farm was allocated to each Afrikaner family in the areas of Gama†hab (Kamanjab), Kailaub (Grootfontein), Tsuob (Outjo), †Narahetamas (Otjikondo), and †Khoeob (Okaukuejo).
- 6.14 The allocation of these vast tracts of lands in the †Aodaman traditional settlement area to the fugitive and impoverished Afrikaner settlers from Angola left the †Aodaman traditional community with nothing but aversion, hatred and rebellion.
- 6.15 Dr Pieter Gerhardus Jacobus Koornhof, the then Deputy Minister of Bantu Administration and Education, gave notice by way of *Official Gazette* No. 1300 of 1 September 1972 that, –

3 Also known as *Thirstlandtrekkers*, these were farmers who had migrated from South Africa.

4 A reference to the Vaal River in their place of origin – the Transvaal, South Africa.

with effect from 1 August 1972, on behalf of the Ministry of Bantu Administration and Development under and by virtue of the powers vested in him by section 2(1), (a), (c), (f) and (h) of the Magistrates' [sic] Court Act, 1944 (Act 32 of 1944), as amended and after obtaining a report from the Public Service Commission under section 3(3) of the said Act –

(a) (i) create a district to be known as the District of Damaraland ...

- 6.16 With the proclamation of Damaraland as a 'homeland' for the Damaras, a famous †Aodaman leader, Chief Petrus !Ganeb, successfully negotiated with the then *Gaob* of the Damara communities/people, *Gaob* Dawid Goreseb, for the resettlement there of the †Aodaman, remnants of Owambo groups, and Ovaherero, as well as some minor groups who fell under his jurisdiction.
- 6.17 Since its proclamation, Damaraland was divided into 11 (eleven) Wards. However, during 1974, a group of Damara communities/people were repatriated from Riemvasmaak near Kakamas in South Africa, to the Damaraland area in what was then known as South West Africa (present-day Namibia).
- 6.18 This group of Damara communities/people were resettled in Ward No. 7, in an area where a group of †Aodaman were residing under the leadership of the late *Gaob* !Goarahe Josef !Hoab.
- 6.19 Given that this group of Damara communities/people had its own values, norms, traditions and cultural practices under its own leadership, the Executive Committee of the Damara Council by way of Resolution 35/86 of 23 April 1986, resolved to subdivide Ward No. 7 into two parts in order to accommodate the two distinct groups of Damara communities/people.
- 6.20 From this point on, Damaraland had 12 Wards.
- 6.21 The subdivision of Damaraland into 12 Wards was not only done to ensure more efficient and effective administration and planning, but was also essential for ensuring the various Damara subclans' specific customs, values, and cultural and traditional practices were retained.
- 6.22 The Executive Committee of the Damara Council, under the Chairpersonship of Mr Justus !Garoeb, resolved on 23 April 1986 to –
  - (a) reconfirm that the communal land of the Damaras, as outlined in Annexure B of *Government Gazette* 2428 of 1972, and as amended by *Government Gazette* 9 of 1979 of the Administrator-General, should be subdivided into 12 (twelve) Wards, as outlined in Annexure A and the Regional Map in Annexure B
  - (b) declare that Wards 1 through 4 would thenceforth be known as the Southern Region, with a Regional Office in Okombahe (!A†gomes)
  - (c) declare furthermore that Wards 5 through 9 would thenceforth be known as the Central Region, with a Regional Office in Khorixas (Xorixas), and
  - (d) declare in addition that Wards 10 through 12 would thenceforth be known as the Northern Region, with a Regional Office in Anker.
- 6.23 The Damara Council's Executive Committee, appointed by Chief Justus !Garoeb as the Acting Paramount Chief of the Damara communities/people as per Resolution 125/88 in terms of section 9(3) of Ordinance 2 of 1986, confirmed, after having obtained prior approval from the Administrator-General, the appointment of the

following elected Headmen for Wards 8 and 9, where members of the †Aodaman community continue to live:

- (a) Mr Petrus Ukongo, Chief of the †Aodaman, Ward 8, and
- (b) Mr Festus !Aseb, Traditional Councillor, Ward 9.

## 7. †Aodaman subclans

7.1 The original subclans that made up the †Aodaman traditional community were as follows:

- (a) †Nur|gammen – Those who fled the *efundja* (flood)
- (b) *Hailom* – Those who sleep in the trees (this refers to a tactic for escaping predators, foes and the like). Historically, the *Hailom* (also misspelt as *Haikom*, *Haikum* or *Haisikhum*) were known to be a subgroup of the †Aodaman, and retained the culture of their common ancestors.
- (c) †Aokhoen – The people from the top
- (d) *Daniben* (the Honey *Damaran* in the †Khoaeu or Otavi Mountains)
- (e) †Nauen – Those whose delicacy was nut-like fruit
- (f) *Tu†gaben* – Those who lived in and around Tu†gas (Etosha Pan)
- (g) †Nauen – Those living in an area with an abundance of †naus, a veld fruit, and
- (h) *Tsaoben* – Those living around the rocky outcrops close to †Gaisis (Lake Otjikoto; literally, “the ugly one”).

7.2 Most of these †Aodaman subclans intermarried with their neighbours who were then and still are the Jul’hoansi, Kavango, Ovaherero, Owambo, Mafwe, Masubia, Mayeyi, Naro and †Kung.

## 8. Common surnames among the †Aodaman

The following are common surnames and are marked for gender. Thus, a woman will be called *Aribes* and a man *Aribeb*.

|          |           |        |          |        |
|----------|-----------|--------|----------|--------|
| Aribe    | Awase     | Amamu  | !Aebe    | †A-use |
| Danibe   | Awise     | Arese  | !Aibe    | †Gaebe |
| Gaoxa    | Gamiro    | Awase  | !Airise  | †Gaese |
| Gaugowa  | Gause     | Guio   | !Ase     | †Goase |
| Haibe    | Gawise    | Hoese  | !Gane    |        |
| Harae    | Gorne     | Inixa  | !Haradoe |        |
| Khairabe | Guidao†oa | Khaise | !Hoae    |        |
| Sane     | Haube     | Use    | !Horase  |        |
| Somse    | Howose    |        |          |        |
| Sorose   | Hunibe    |        |          |        |
| Suxu     | Khoese    |        |          |        |
| Tsae     | Khunuxa   |        |          |        |

## 9. Precolonial, postcolonial and present-day †Aodaman leaders

- 9.1 Contrary to what is recorded in many Eurocentric history books and other literature, every single Damara traditional community had its own leader.
- 9.2 Similarly, the †Aodaman had several rulers in the areas where they lived and roamed as hunter-gatherers and, later, as pastoralists.
- 9.3 As they did in the past, in present-day Namibia the †Aodaman traditional community inhabits the following areas in Namibia: †Haigomab!gaus, (Kaokoland), Huri†naub (Kunene River), Damarodi (Grootberg area), †Ga-ams (former so-called Ovamboland), Tu†gas (rain pan or Etosha Pan), area east of Gama†hab (Kamanjab), †Aixorobes (Tsumeb), Kailaub (Grootfontein), Tsawilaus (Otavi), the highlands down to Tsuob (Outjo District), especially the area most commonly known as Arob (an arid, waterless area), †Haub, and †Hai Parases (Paresis Mountains, which form the natural boundary with the †Gaiodaman).
- 9.4 *Gaob* †Khoe-uib (“the one who fled and stayed alive”) had his headquarters at Xaragas (Ruacana) and †Khaikariloms (Magugu) on the northern fringes of Tu†gas (Etosha Pan), where salt was collected and antelope hunted. However, due to the prevalence of predators, the perpetual threat of the killer Aosen!los (malaria) and seasonal †nurulgammi (*efundja* in Oshiwambo, “flood”) in the Tu†gas area, *Gaob* †Khoe-uib and his subjects were compelled to move north-west to safer areas on much higher ground, namely Xaragas (Ruacana) and †Khaikariloms (Magugu).
- 9.5 The †Aokhoen, who live in the area of Sesegab or †Aokhoen!hub – the land of the †Aokhoen – were led by *Gaob* Haiab and his coppersmith son †Aikoxorobeb (“the one who digs up copper”) at †Aixorobes. Indeed, the †Aokhoe names for Tsumeb are Xorohes and †Khoros.
- 9.6 The Hailom were under the leadership of *Gaob* †Apexab (“the industrious one”), with his headquarters at Karakhawas, †Ganaxas, †Gaub, †Naetsanab (Jakkalsberg), and †Nuixob.
- 9.7 The Daniben clan to the east of Tsawilaus and those at Karabes, Otavi, †Aukhaos, †Harubeb Kaikhobeb, †Khorab (Khorab) and †Hirabes were led by †Gae†gui-aob †Galob whilst the †Nauen clan around †Guilnas or Kuinas (Lake Guinas) were under *Gaob* Gariseb Kaib.
- 9.8 At †Gaisis (Lake Otjikoto), *Gaob* †Hanadaob, *Gaob* Naheb and *Gaos* †Nawatises were the successive leaders. The latter was a woman, which in itself was an exceptional phenomenon of gender equality shown in the †Aodaman traditional community leadership and clan hierarchy, which was patriarchal.
- 9.9 The Tsaosen clan around †Gaisis were under the leadership of the Tsaose brothers (*Tsaosekhoe Gagugu*, “the tall ash people”).
- 9.10 Xamdoeb (“the one who trekked due to the danger posed by lions”) led the Tu†gaben at †Khinatabes (Halali) and †Khoe-oeb (Okaukuejo), while *Gaob* Geiriseb led the clan at Gauas (Berg Aukas).
- 9.11 *Gaob* †Gaseb, the leader of the †Aodaman-†Gaio amalgamation, was based at †Ubab (Palafontein), while senior traditional leaders were based at †Gawatabes, †Ubara†gaus, †Naxabes, †Nawidi, †Gao-ais (Buffelshoek).

- 9.12 *Gaob* Gunigub was stationed at †Gam‡garub (Gamkarub, Farm No. 269), *Gaob* Xam‡noab at Hotsaub (Hotsaus, Farm No. 465), *Gaob* †Gudoeb at Tsobas (Tsobas, Farm No. 218) and *Gaob* Namaseb and Senior Traditional Councillor †Aiseb at †Oenitsaub (†Oenitsaub, Farm No. 37).
- 9.13 *Gaob* Aribeb is regarded as one of the most popular †Aodaman leaders and was feared and respected by both friend and foe. The same applied to †Howahe and the Namase brothers.
- 9.14 *Gaob* Aribeb later signed a treaty with the German colonial government at Tsuob (Outjo) for the protection not only of his people, but also of those from Uukwaludhi, Uukwambi, Ongandjera and Ondonga who happened to be his allies in his battles against the colonialists in the Tu‡gas (Etosha Pan) area.
- 9.15 In the area south-west of †Khoeb (Okaukuejo) at †Nams (Sydburg, Farm No. 246), †Nubes (Nubes, Farm No. 32) and Xaudamas, a considerable number of the †Aodaman settled under *Gaob* Gaoxab, the son of Xamlob, the son of Ha‡oihes.
- 9.16 *Gaob* Amburub was the leader of the †Aodaman in Aro‡hub, and he was succeeded by *Gaob* Petrus †Ganeb. In line with the ‘homelands’ system in the then Damaraland, *Gaob* Petrus †Ganeb of the †Aodaman was designated Chief of the Damara communities residing in Khorixas and its immediate vicinity.
- 9.17 *Gaob* Petrus †Ganeb served as the leader of the communities at Soresores and Ani‡gab (Ward 7), Bella Vista (Ward 6) and Khorixas (Ward 8) in the Kunene Region, as well as Daures (Brandberg), †A‡gommeb (Okombahe), Omatjete and †Uis (Uis) in the Erongo Region.
  - (a) (King/Chief) *Gaob* Petrus †Ganeb was known as the *Lion of Damaraland*. His abode was at Tsaurob, a settlement that is some 10 km north of Fransfontein (Farm No. 6).
  - (b) Tsaurob is also affectionately called †Ganebpos, after *Gaob* Petrus †Ganeb.
  - (c) According to the 18 October 1985 issue of the now defunct newspaper *Die Suidwester*, *Gaob* Petrus †Ganeb was a fearless character who succeeded in reclaiming the Fransfontein Reserve – to the dismay of the white commissioners and the Swartbooi †Khaul‡goa Namas.
  - (d) This was because to him, *Gaob* Petrus †Ganeb, the interest and the welfare of the †Aodaman were paramount.
  - (e) Although he was a man who did not mince his words, he was not very talkative, but would rather listen to what others had to say. Whenever he did then say something, his wisdom was apparent.
  - (f) This great †Aodaman leader died and was laid to rest in Fransfontein with great honour.
- 9.18 There were several other †Aodaman leaders after *Gaob* Petrus †Ganeb, including Traditional Councillors like the late †Goarahe Josef †Hoaeb, the late Daniel †Auseb, the late Matheus Somaeb, the late Willem †Hoaeb, the late Ben W †Awaseb, the late Ismael †Goraseb and the late livestock magnate, Otto †Uiseb.
- 9.19 One more name of an outstanding †Aodaman leader is that of another illustrious †Aodaman son, the late *Gaob* Arusen G †Uiseb. He was also a good listener, and a democratic leader. Chief †Uiseb always consulted his people before taking a

decision or issuing a statement. He unfortunately passed away in 2002, and was laid to rest in Khorixas.

- 9.20 The incumbent Chief of the †Aodaman traditional community is *Gaob* Petrus Ukongo, another democratic leader who is a very patient character and hardly ever loses his temper.

## THE LAWS OF THE †AODAMAN<sup>5</sup>

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5      The laws of the †Aodaman were submitted in English only.





# 1. Succession in the †Aodaman traditional leadership

- 1.1. In the traditional †Nūkhoen (Damara) social and political administration, there were no structured elections of leaders, be they Chiefs, Senior Traditional Councillors or ordinary Traditional Councillors.
- 1.2. The very nature of the social and political organisation influenced this political arrangement. Communities, clans and clusters were fairly spread out across areas of their habitation, which were on high-lying areas in close proximity of or around water points.
- 1.3. Each and every †Aodaman clan had its *Gaob* (“King”), senior traditional leaders, ordinary traditional leaders and a Council of Elders.
- 1.4. The Council of Elders consisted of men famed for their hunting skills, their craftsmanship, their warriorship, their knowledge, and their wisdom.
- 1.5. The †Aodaman hierarchy was predominantly patrilineal/patriarchal.
- 1.6. A *Gaob*’s own sons were not automatic heirs to the throne.
- 1.7. Usually, the immediate heir to the chieftaincy (!*haos di gaosis*) of the †Aodaman was the eldest son of the reigning *Gaob*’s eldest sister.
- 1.8. Should the eldest son of the eldest sister be unfit for leadership, the position would be transferred to his younger brother.
- 1.9. If the *Gaob*’s eldest sister had no son, then the eldest son of the *Gaob*’s younger sister would be considered.
- 1.10. If neither the eldest son of the †Aodaman *Gaob*’s eldest sister nor his younger sisters’ male offspring possessed the qualities for assuming the position of *Gaob*, the Chief’s Council could choose from within the †Aodaman traditional community another male person who possessed the requisite characteristics, gumption, acumen and wisdom.
- 1.11. Thus, the notion of kingship/chieftaincy was not always based upon succession in terms of so-called blue blood; there was room for manoeuvring when, for example, the *Gaob*’s sisters only had daughters.
- 1.12. Women were not considered for succession in becoming *Gaob*.
- 1.13. The exception to this patriarchal/patrilineal succession was at †Gaisis (Lake Otjikoto), where *Gaob* Naheb had a female successor, namely *Gaos* †Nawatises, which in itself was an exceptional phenomenon of gender equality shown in the historical †Aodaman leadership and clan hierarchy.
- 1.14. There were, however, also cases where the *Gaob* himself did not have a female sibling. In such cases, the eldest son of the *Gaob*’s oldest aunt – namely the younger sister of the *Gaob*’s mother, and daughter of the *Gaob*’s grandmother – would be considered for taking over at the helm.
- 1.15. It was also the norm for the *Gaob* to identify, groom and inform the community about his choice in the case of a non-hereditary succession.
- 1.16. However, this was not a unilateral decision taken by the *Gaob*, but was preceded by consultations with the tribal leaders and the †Aodaman *Gaob*’s Council.
- 1.17. If the *Gaob* died before he was able to identify and groom a non-hereditary successor, the onus was upon the *Gaob*’s Council to headhunt for a successor to the *Gaob*.

- 1.18 This situation changed slightly with the Executive Committee of the Damara Council (Damara Raad) Resolution 69 of 1987 pertaining to the subject of the election and/or appointment of traditional leaders within what was then known as Damaraland, under the leadership of Messrs J ǀGaroeb (Chairperson), SI Tjongarero (Vice-chairperson), GA ǀUiseb (Member), F ǀAseb (Member), and JI Hendricks (Member) as outlined in clause 1.19.

### **1.19 Procedure for the election of Headmen**

- 1.19.1 There shall be no debating or campaigning during the election of a Headman for a Ward.
- 1.19.2 The names and clear photographs of such candidates shall be submitted at registration.
- 1.19.3 In the event that only one candidate is nominated for a Ward, s/he shall be regarded as duly elected unopposed.
- 1.19.4 If more than one candidate is nominated, the election shall take place and the candidate who receives the majority of the votes cast shall be declared duly elected by the official serving as a presiding officer during the election process.
- 1.19.5 In case none of the candidates obtains an absolute majority of votes cast, the candidate who has scored the least number of votes amongst the candidates shall be deemed as having been eliminated, and a further election shall be held wherein the remaining candidates shall compete. This process shall be repeated until a candidate scores an absolute majority of votes cast.
- 1.19.6 If two or more candidates score an equal number of votes, but such votes are less than those cast in favour of the other candidates, the meeting shall resolve to embark on a separate voting process between the candidates with equal numbers of votes until one of them garners more votes than the others in terms of clause 1.19.5 of these Laws.
- 1.19.7 In the case of only two candidates being nominated and seconded, or after elimination rounds have been concluded and to ensure only two candidates remain, in terms of clause 1.19.5 of these Laws the election between such two candidates shall be conducted until one gains the absolute majority of votes cast.
- 1.19.8 If the outcome does not produce an absolute winner, the presiding officer shall have the right to postpone the election until the following day.
- 1.19.9 Voting shall take place by way of a secret ballot, and the election process shall be conducted in terms of clause 1.19.6 of these Laws as follows:
- (a) A ballot paper with an official marking shall be issued to a registered voter.
  - (b) A voter shall insert a cross in the block alongside the name, photograph and/or emblem/totem of the candidate of his/her choice.
  - (c) The voter shall deposit his/her ballot paper into a ballot box that shall be placed at an easily accessible spot inside the polling station.
  - (d) Once the polling station has closed for business, the person in charge of

a polling station shall inspect the ballot papers for validity and, with the assistance of other polling officials, shall count the votes cast for each participating candidate, and shall announce the winner, there and then, on the basis of the total number of votes a candidate has earned.

## **1.20 Procedures for the nomination, election and appointment of a Paramount Chief**

- 1.20.1 The appointment of a Paramount Chief (King or Queen) of the Damara communities/people shall be done in accordance with section 12 of Ordinance 2 of 1986 of the Damara Legislative Assembly,<sup>6</sup> which stipulates the following:
- (a) The Headmen shall converge at Okombahe within 21 (twenty-one) days after they have been nominated, seconded, elected and appointed in concurrence with the King's Council of the Paramount Chief of the Damara communities/people, in order to nominate and appoint a Paramount Chief.
  - (b) A person that is to be considered for Paramount Chieftaincy of the Damaras shall preferably be male and shall hail from the bloodline of the Paramount Chief/King.
  - (c) A Paramount Chief who has been duly elected in accordance with the aforementioned procedure shall have been recognised as such by the Executive Committee of the Damara Council, with prior approval to that effect obtained from the Cabinet of Ministers of the Government of the Republic of Namibia.
  - (d) If the Paramount Chieftaincy position cannot be filled, or if the Paramount Chief does not have the capability, capacity, gumption and acumen to perform his/her functions and duties for any reason, an Acting Paramount Chief may be appointed in accordance with section 12(1) of the Ordinance 2 of 1986.

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6 By virtue of the above-stated law of the †Aodaman, section 12 of the Damara Community and Regional Authorities and Paramount Chief and Headmen Ordinance 2 of 1986, repealed by the Community Courts Act, 2003 (No. 10 of 2003; see Schedule to section 33 of the Act), remained part of the law of the †Aodaman. Section 12 reads as follows:

“12.(1) The headmen shall assemble, within 21 days after the election and recognition or appointment of all headmen in terms of section 3, at Okombahe to elect in consultation with the Damara royal house, the Paramount Chief who shall preferably be from the royal blood-line.

- (2) A Paramount Chief so elected, shall be recognised or appointed as such by the Executive Committee with the prior approval of the Cabinet.
- (3) If the office of Paramount Chief cannot be filled or the Paramount Chief is for any reason unable to perform his powers, duties or functions, an acting Paramount Chief may be elected in the manner set out in subsection (1).
- (4) The Paramount Chief, except an acting Paramount Chief who holds his office for a period not exceeding five years from the date on which he is recognised or appointed as such, shall hold his office as long as he maintains it worthily and according to the law and customs of the Damaras.”

- (e) The aforesaid acting appointment shall not exceed five years with effect from the date on which the acting appointment was formalised.
- (f) The Paramount Chief shall occupy this position for as long as s/he would be able to perform his functions and duties in line with the values, norms, tradition and culture of the Damara traditional community.

## **1.21 The Damara Royal House**

- 1.21.1 All the descendants of the late King Cornelius Goreseb, including the Paramount Chief's siblings and the offspring of his siblings up until the fourth generation, as well as all the descendants of the late King David Goreseb, including the Paramount Chief's siblings and the offspring of his siblings up until the fourth generation, shall be regarded as members of the Damara Royal House.

## **1.22 Election of Traditional Councillors**

- 1.22.1 The election of 3 (three) Traditional Councillors for each one of the 12 (twelve) Wards shall be done in the same manner as for the election of the Headmen, in accordance with section 12(1) of Ordinance 2 of 1986, with the understanding that more nominations shall be accepted than was the norm for the election of Ward Headmen.
- 1.22.2 The 3 (three) seconded nominees who secure the highest votes during the poll shall be declared the winning candidates for a particular Ward.
- 1.22.3 If only 3 (three) candidates are nominated, all of them shall be regarded as duly elected, and no formal election shall be held in a Ward.

## **1.23 Precautionary measures**

- 1.23.1 Elections for all 12 (twelve) Wards shall be held on the same day in order to avoid a situation where an individual might stand as a candidate in more than one Ward simultaneously.

## **1.24 Eligibility for voting**

- 1.24.1 Any Damara-speaking person above the age of 18 (eighteen) who resides in or has farming or business interests in a particular Ward, or is a dependent of someone residing in a particular Ward, shall be entitled to vote for a candidate of his/her choice in such Ward.
- 1.24.2 All Damaras above the age of 18 (eighteen) who reside in a Ward, including those with temporary farming and/or business interests located in the Ward, shall be regarded as bona fide residents of the Ward, and shall have the right to participate as voters in Ward elections.
- 1.24.3 All eligible voters shall register for voting in full view of the general public. This proviso is built in to prevent strangers from being exploited by external

forces to gain more votes by letting persons who do not reside, farm or have business interests in a particular Ward to cast their votes in that Ward and, thus, manipulate election results.

- 1.24.4 The inhabitants of a Ward shall be entitled to object to the registration of an outsider to cast his/her vote in their Ward.
- 1.24.5 Should a dispute arise over the identity of a person who wishes to register as a voter in a particular Ward, the outgoing Headman's Council shall discuss the matter and take a binding decision on it.
- 1.24.6 The incumbent Chief of the †Aodaman, Chief Petrus Ukongo, as well as the Senior Traditional Councillors and Traditional Councillors of the †Aodaman Traditional Authority were elected in the same fashion as per Resolution 69/87 of the Damara Council Executive Committee in respect of the election and/or appointment of traditional leaders within Damaraland, under the leadership of –
  - (a) Mr J I Garoeb (Executive Committee Chairperson), Incumbent Paramount Chief of the Damara
  - (b) Mr S I Tjongarero (Executive Committee Vice-chairperson)
  - (c) Mr G I Useb (Executive Committee Member), Late Chief of the †Aodaman
  - (d) Mr F !Aseb (Executive Committee Member), †Aodaman Traditional Authority Councillor, and
  - (e) Mr J I Hendricks (Executive Committee Member), †Aodaman Traditional Authority Councillor.

## 2. Office and duties of the †Aodaman Traditional Authority

- 2.1 The †Aodaman traditional community shall be headed by a Chief, or a *Gaob/Gao-Aos* or *Gaos/Gaob*, who shall be a †Nūkhoegowab-speaking Damara of †Aodaman descent, thus being –
  - (a) a daughter or son of parents of †Aodaman descent, meaning that both father and mother shall be children of †Nūkhoegowab- or Damara-speaking people of †Aodaman descent, or
  - (b) a daughter or son of a †Nūkhoegowab-speaking Damara father of †Aodaman descent, implying that the father's parents shall be a †Aodama man and woman.
- 2.2 The Chief of the †Aodaman shall be assisted in the execution of his/her powers, duties and functions by Senior Traditional Councillors and Traditional Councillors who, too, shall be of †Aodaman descent, thus being –
  - (a) daughters or sons of †Nūkhoegowab-speaking Damara parents of †Aodaman descent, meaning that both their fathers and mothers shall be children of parents of †Aodaman descent
  - (b) daughters or sons of †Nūkhoegowab-speaking Damara fathers of †Aodaman descent, implying that both the father's parents shall be †Nūkhoegowab-speaking Damaras of †Aodaman descent, or
  - (c) persons who, by marriage to a person of †Aodaman descent, has adopted the †Aodaman culture, the language (†Nūkhoegowab) the †Aodaman cultural

heritage, †Aodaman customs, and the traditions of the Damaras in general and of the †Aodaman traditional community in particular, as well as having been accepted by the †Aodaman as a member of the traditional community.

- 2.3 A person shall only be eligible for nomination by the elders of the †Aodaman traditional community, and shall only be eligible for election by members of the †Aodaman traditional community as a *Gaob* or a Senior Traditional Councillor of the †Aodaman Traditional Authority if s/he –
  - (a) shares a common †Nūkhoegowab-speaking †Aodaman ancestry, language (†Nūkhoegowab), the †Aodaman cultural heritage, †Aodaman customs, and the traditions of Damara communities/people in general and of the †Aodaman traditional community in particular
  - (b) conforms to either one of the provisions as contemplated in the customary law of the †Aodaman Traditional Authority in terms of descent as specified in clause 2.1 above
  - (c) is prepared to promote peace and welfare among the members of the †Aodaman traditional community through supervising and ensuring that the members of the †Aodaman traditional community observe their customary law, and
  - (d) is an ordinary resident of the communal area inhabited by members of the †Aodaman traditional community and which falls within the jurisdiction of the †Aodaman Traditional Authority.
- 2.4 A person who, by marriage to a person of †Aodaman descent, adopts the †Aodaman culture, †Nūkhoegowab, the †Aodaman cultural heritage, †Aodaman customs, and the traditions of the Damaras in general and of the †Aodaman traditional community in particular, and who has been accepted by the †Aodaman as a member of the traditional community, shall only be eligible for nomination or appointment as an ordinary Traditional Councillor of the †Aodaman Traditional Authority.
- 2.5 A person who, by marriage to a person of †Aodaman descent, adopts the †Aodaman culture, †Nūkhoegowab, the †Aodaman cultural heritage, †Aodaman customs, and the traditions of the Damaras in general and of the †Aodaman traditional community in particular, and has been accepted by the †Aodaman as a member of the traditional community, shall not, however, be eligible for nomination or election or appointment as a Chief or a Senior Councillor of the †Aodaman Traditional Authority.

### **3. Office and duties of the Chief** **(*Gao-Aob/Gaob* or *Gao-Aos/Gaos*)**

- 3.1 The †Aodaman Chief (*Gao-Aob/Gaob* or *Gao-Aos/Gaos*), nominated by the elders of the †Aodaman traditional community, implying persons above the age of 60 (sixty), and elected by a majority of 50% (fifty per cent) plus 1% (one per cent) out of a total assembly of persons of †Aodaman descent as contemplated in the customary laws of the †Aodaman traditional community under clause 2.1 herein, at either the seat of the traditional village and the cultural heritage site of the

‡Aodaman traditional community at Navarre Post, or at the seat of the ‡Aodaman Traditional Authority at Inhoek Post 42, shall, assisted by the Senior Traditional Councillors and Traditional Councillors of the ‡Aodaman Traditional Authority, –

- (a) serve as the Head of the ‡Aodaman traditional community and the ‡Aodaman Traditional Authority.
- (b) be the custodian entrusted with supervising and ensuring the observance of ‡Aodaman customary law.
- (c) uphold, promote, protect and preserve the culture, language, tradition and traditional values of the ‡Aodaman.
- (d) promote the performance of traditional ceremonies such as cultural festivals of the Damaras and the ‡Aodaman.
- (e) spearhead the collection and preservation of artifacts representing the language, culture, tradition, values and norms of the ‡Aodaman at the cultural heritage site.
- (f) encourage the members of the older generation in each ‡Aodaman family to educate the youth about ‡Aodaman traditional practices in particular, and the Damara customs and culture in general, as well as to be proud of and be able to speak, read and write ‡Nūkhoegowab, the mother tongue of the Damaras.
- (g) entice the older generation of the ‡Aodaman traditional community to practise what they preach by demonstrating ‡Aodaman and Damara traditional values, customs and traditions to the youth of ‡Aodaman descent in their everyday lives and conduct.
- (h) promote the welfare and health of the members of the ‡Aodaman traditional community by –
  - (i) encouraging them to denounce the practice of having more than one partner so that the risk of contracting HIV and AIDS can be lessened
  - (ii) being faithful to one partner, and
  - (iii) in polygamous relationships, practising safe sex by using condoms and femidoms.
- (i) execute the powers, duties and functions of leadership over the members of the ‡Aodaman traditional community in accordance with the customary law of the ‡Aodaman Traditional Authority, subject to the provisions of the Traditional Authorities Act, 2000 (No. 25 of 2000).
- (j) be entitled to the trust, honour, support and obedience of the members of the ‡Aodaman traditional community in order to enhance the proper execution of his/her powers, duties and functions as the head of such community and of the ‡Aodaman Traditional Authority.
- (k) serve as Chairperson at the assembly of the ‡Aodaman traditional community and at meetings of the ‡Aodaman Traditional Authority.
- (l) represent the ‡Aodaman traditional community and the ‡Aodaman Traditional Authority on the Damara King's Council as well as on the Damara Chiefs' Council, and fight for the promotion of unity and the protection of the rights and interests of the Damara communities/people in the Republic of Namibia through these entities, and report on the workings



of these structures at the annual assembly of the †Aodaman traditional community at either Navarre Post or Inhoek Post 42.

- (m) promote the spirit of self-reliance, self-development and socio-economic independence amongst members of the †Aodaman traditional community.
- (n) in consultation with the members of the †Aodaman Traditional Authority, have the mandate to nominate and appoint persons of †Aodaman descent as contemplated in clause 2.1 herein as members of various committees that will serve as support structures for the sound execution of the powers, duties and functions of the †Aodaman Traditional Authority, under the leadership of the Chief him-/herself or of the Senior Traditional Councillors or the Traditional Councillors of the †Aodaman Traditional Authority.
- (o) initiate and spearhead negotiations with any entity or individual that are geared towards improving the livelihood of the inhabitants of the communal area of the †Aodaman traditional community over which the †Aodaman Traditional Authority has jurisdiction.
- (p) set up a †Aodaman Youth Council for persons of †Aodaman descent whose ages range between 18 (eighteen) and 34 (thirty-four) years, so that the needs and aspirations of the young generation of members of the †Aodaman traditional community can be attended to, and shall guide these young people to assist with the organisation of conferences, cultural festivals and income-generating projects.
- (q) establish a †Aodaman Women's Council for female members of the †Aodaman traditional community above 35 (thirty-five) but below 60 (sixty) years of age, that would take charge of the collection of oral history of the †Aodaman traditional community, the initiation of young girls into womanhood, and spearheading programmes geared towards enhancing the welfare of women, the sick, the poor and the elderly, as well as orphans and other vulnerable children.
- (r) bring into existence a †Aodaman Elders' Council, membership of which shall be open to persons of †Aodaman descent, both male and female, above the age of 60 (sixty), responsible for –
  - (i) gathering traditional medicines such as roots and herbs
  - (ii) educating the younger generation of †Aodaman descent about the various uses of such medicine as well as other traditional/cultural practices, values and norms
  - (iii) nominating a person of †Aodaman descent to be elected or appointed as a Chief, Senior Traditional Councillor or Traditional Councillor, and
  - (iv) advising the †Aodaman Traditional Authority on matters that it deems imperative or when approached to intervene.
- (s) enter into an agreement, on behalf of the †Aodaman traditional community, in consultation with and with the blessing of the majority of the members of the †Aodaman Traditional Authority, thus 50% (fifty per cent) plus 1% (one per cent), in respect of any cause aimed at improving the livelihood of



the inhabitants of the ǀAodaman communal area under the jurisdiction of the ǀAodaman Traditional Authority.

- (t) assist the Namibian Police and other law enforcement agencies in the prevention and investigation of crime and the apprehension of offenders in the ǀAodaman communal area under the jurisdiction of the ǀAodaman Traditional Authority, subject to the provisions of the Criminal Procedure Act, 1977 (No. 51 of 1977), through community-based organisations such as Ditsa i mu.<sup>7</sup>
- (u) promote peace amongst members of the ǀAodaman traditional community as well as between the ǀAodaman and other Namibian traditional communities, including Traditional Authorities whose demographic areas of jurisdiction border on the ǀAodaman communal area, as well as among those who have been awarded ǀAodaman ancestral land.
- (v) advise the Council of Traditional Leaders in the performance of its functions, as provided for under Article 102(5) of the Namibian Constitution, the Council of Traditional Leaders Act, 1997 (No. 13 of 1997), or under any other applicable law.
- (w) perform any other function as may be conferred upon him/her by any statutory law and in accordance with the customary law of the ǀAodaman Traditional Authority.
- (x) assist and cooperate with the government, Regional Councils and Local Authority Councils in the execution of their policies.
- (y) keep the members of the ǀAodaman traditional community informed about development projects in their communal land areas.
- (z) ensure that the members of the ǀAodaman traditional community use the natural resources at their disposal on a sustainable basis and in a manner that conserves the environment and maintains the ecosystems for the benefit of all persons in Namibia.
- (aa) respect the culture, customs and language of any person who resides within the ǀAodaman communal area under the jurisdiction of the ǀAodaman Traditional Authority who is not a member of the ǀAodaman traditional community.
- (bb) hear and settle disputes between members of the ǀAodaman traditional community, as well as disputes between members of the ǀAodaman and members of any other communities that reside on the land under the jurisdiction of the ǀAodaman Traditional Authority in terms of the Community Courts Act, 2003 (No. 10 of 2003).
- (cc) raise funds on behalf of the ǀAodaman, pay such funds into the ǀAodaman Traditional Community Trust Fund, and administer such funds in accordance with the provisions of Part III of the Traditional Authorities Act, 2000 (No. 25 of 2000).
- (dd) create an office stamp bearing the motto and coat of arms of the ǀAodaman traditional community for use on all official correspondence from the ǀAodaman Traditional Authority.

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7 The name of a community neighbourhood watch.

- (ee) set up and serve as the Chairperson of a ǀAodaman Traditional Authority's Chief's Council for the day-to-day administration of the affairs of the ǀAodaman Traditional Authority, and record-keeping.
- (ff) appoint any person of ǀAodaman descent, as contemplated in clause 2.1 herein, or any member of the ǀAodaman Traditional Authority as Secretary to such Traditional Authority and to the ǀAodaman Chief's Council.
- (gg) notify, in writing, the Minister responsible for regional and local government about the election or appointment of a Senior Traditional Councillor, a Traditional Councillor or a Secretary, specifying the incumbent's name, office and traditional title as well as the date of such election or appointment.
- (hh) assign one or two Senior Traditional Councillors of ǀAodaman descent, as contemplated in clause 2.1 herein, to assist him/her in administering the affairs of the ǀAodaman Traditional Authority Chief's Council.
- (ii) in terms of sections 8(2) and 15(5) of the Traditional Authorities Act, appoint any person of ǀAodaman descent, as contemplated in clause 2.1 herein, or any member of the ǀAodaman Traditional Authority, in consultation with and with the blessing of the ǀAodaman Council of Elders, the ǀAodaman Women's Council, the ǀAodaman Youth Council and 50% (fifty per cent) plus 1% (one per cent) majority of the assembly of the ǀAodaman traditional community at either Navarre Post or Inhoek Post 42, to act in his/her place as Chief of the ǀAodaman traditional community, if s/he is for any good reason unable to perform such duty.
- (jj) recommend to the ǀAodaman Council of Elders, the ǀAodaman Women's Council, the ǀAodaman Youth Council and the assembly of the ǀAodaman traditional community the removal of any member of the ǀAodaman Traditional Authority from the position of Senior Traditional Councillor, Traditional Councillor, or Secretary to the ǀAodaman Chief's Council or Secretary to the ǀAodaman Traditional Authority, on the basis of such member's non-compliance with the provisions of ǀAodaman customary law, or, if such member has been elected to political office, his/her removal from such office for embarrassing conduct in public such as drunkenness, use of foul or abusive language, fighting, etc.
- (kk) notify, in writing, the Minister responsible for regional and local government about the removal of a Senior Traditional Councillor, a Traditional Councillor or a Secretary, specifying the incumbent's name, office and traditional title, as well as the date of their removal and the reasons for such action.
- (ll) engage the Government of the Republic of Namibia in general and, in particular, the Council of Traditional Leaders established by section 2 of the Council of Traditional Leaders Act, in negotiating for the return of ǀAodaman ancestral lands that do not form part of the area over which the ǀAodaman Traditional Authority has been granted jurisdiction, and
- (mm) in the case of being elected or appointed to political office, abdicate the throne and notify the ǀAodaman Traditional Authority and the Minister

responsible for regional and local government accordingly about such election or appointment, in writing, specifying the election or appointment date applicable.

## **4. General laws**

### **4.1 Preamble**

We, the ǀAodaman traditional community, adopt the customary law of the ǀAodaman as set out herein, which outlines the norms, rules of procedure, tradition and usages of the ǀAodaman traditional community, and pledge to always honour such customary law and the Constitution of the Republic of Namibia in order to live in peace and harmony among ourselves as ǀAodaman and with the rest of the Namibian population.

### **4.2 Aim of the ǀAodaman customary law**

4.2.1 The aim of the ǀAodaman customary law, drafted in consultation with the members of the ǀAodaman traditional community, and as codified by 50% (fifty per cent) plus 1% (one per cent) of the assembly of the ǀAodaman traditional community on Saturday, 18 April 2009, at Navarre Post and Inhoek Post 42 in the Kunene Region of the Republic of Namibia, which is to be administered by the ǀAodaman Traditional Authority through the observance by the members of the ǀAodaman traditional community, shall, in line with section 3(1), (2) and (3) of the Traditional Authorities Act, be to –

- (a) outline the rules and procedures for the establishment of the ǀAodaman Traditional Authority in terms of the appointment, election, or removal from office of the Chief, Senior Traditional Councillors and Traditional Councillors of the ǀAodaman traditional community, as well as outline the powers, duties and functions of the ǀAodaman Traditional Authority.
- (b) promote peace and welfare amongst the members of the ǀAodaman traditional community, all Damara and other Namibian communities, as well as other Namibian residents.
- (c) ensure that any person of another community that resides within the communal area of the ǀAodaman Traditional Authority is informed and aware of and respects the culture, customs and language of the ǀAodaman traditional community in particular, and the language of the Damaras in general.
- (d) uphold, promote, protect and preserve the Damara and ǀAodaman culture, the language (ǀNūkhoegowab) of the Damara and the distinct dialect of the ǀAodaman, and Damara and ǀAodaman traditional values.
- (e) promote affirmative action amongst the members of the ǀAodaman traditional community, as contemplated under Article 23 of the Namibian Constitution, in particular by promoting gender equality with regard to positions of leadership.

- (f) ensure that the members of the ǀAodaman traditional community use the natural resources at their disposal on a sustainable basis, that is, in a manner that conserves the environment and maintains the ecosystems for the benefit of all persons in Namibia, and
- (g) provide set guidelines according to which disputes between members of the ǀAodaman traditional community are heard and settled, as are those between members of the ǀAodaman traditional community and members of any other communities that reside on the area that falls under the jurisdiction of the ǀAodaman Traditional Authority.

### **4.3 Political neutrality**

- 4.3.1 In keeping with the Namibian Constitution's guarantee of a Namibian citizen's freedom of association and the right to form and join political parties and trade unions of his/her choice, members of the ǀAodaman traditional community shall be free to form and join political parties and trade unions of their choice.
- 4.3.2 No person who holds a political office shall serve as a Chief, Senior Traditional Councillor, Traditional Councillor or Secretary of the ǀAodaman traditional community.
- 4.3.3 No person who holds a political office and who is not prepared to vacate such political office shall be considered for appointment in an acting capacity as the Chief of the ǀAodaman Traditional Authority in place of the Chief if the latter has accepted appointment to a political office for the duration of the Chief's period of leave of absence.
- 4.3.4 Any person that is duly designated and recognised to act as the Chief of the ǀAodaman Traditional Authority shall be considered as having taken leave of absence under section 15)(1) of the Traditional Authorities Act once s/he assumes duty as President of Namibia, as a member of the National Assembly, as a National Councillor, as a Regional Councillor, as a Local Authority Councillor, or as a leader of a political party.
- 4.3.5 Any member of the ǀAodaman Traditional Authority that is elected or has accepted appointment to a political office shall be deemed to have taken leave of absence from the office of Chief, Senior Traditional Councillor, Traditional Councillor or Secretary of the ǀAodaman Traditional Authority for the duration of tenure of such office.
- 4.3.6 Any member of the ǀAodaman Traditional Authority that is elected or has accepted appointment to a political office shall cease to perform the functions of his/her position as Chief, Senior Traditional Councillor, Traditional Councillor or Secretary of the ǀAodaman Traditional Authority for the duration that s/he holds such office.
- 4.3.7 Any member of the ǀAodaman Traditional Authority that is elected or has accepted appointment to a political office shall be replaced in accordance with the provisions of this customary law and those of the Traditional Authorities Act as Chief, Senior Traditional Councillor, Traditional Councillor or Secretary of the ǀAodaman Traditional Authority for the duration of the period of tenure of such office.

- 4.3.8 Any member of the †Aodaman Traditional Authority that is elected or has accepted appointment to a political office shall cease to receive any allowances from the state as Chief, Senior Traditional Councillor, Traditional Councillor or Secretary of the †Aodaman Traditional Authority for the duration that s/he holds such office.

## **5. †Aodaman Community Court**

- 5.1 There shall be a †Aodaman Community Court which shall operate in accordance with the Community Courts Act, 2003 (No. 10 of 2003), and †Aodaman customary law for the settlement of disputes between members of the †Aodaman traditional community, the jurisdiction of civil and criminal cases, and the hearing of appeals.
- 5.2 In the event of a dispute among members of the †Aodaman traditional community, the †Aodaman Community Court shall appoint an investigation committee to determine the nature and extent of the case and to make recommendations to such court with the aim of ensuring the just and fair settlement of the dispute.
- 5.3 The †Aodaman Community Court shall ensure that the investigation committee has access to all books, minutes of meetings or other documents which it may deem necessary for perusal in connection with its investigations.
- 5.4 The said investigation committee shall have the power to request particulars and other information from any member of the †Aodaman traditional community which it deems necessary in connection with its investigation.
- 5.5 The said investigation committee shall, without payment of any fees, make enquiries into and obtain extracts from or copies of any book, minutes or other documents which it deems necessary in connection with its investigation.
- 5.6 The said investigation committee shall have the power, by notice in writing, to request any member of the †Aodaman traditional community to appear before it in relation to an investigation at a specified date, time and venue.
- 5.7 Any member of the †Aodaman traditional community that is requested to appear before either an investigation committee or the †Aodaman Community Court shall be expected to cooperate and disclose truthfully and frankly any information known to him/her that is deemed necessary for the investigation in question.
- 5.8 Any member of the †Aodaman traditional community that is requested to appear before either an investigation committee or the †Aodaman Community Court shall be expected to produce any book, minutes or other document or item to the investigation committee or the †Aodaman Community Court required by the investigation in question.

## **5.9 Mediation and arbitration or adjudication procedure**

- 5.9.1 Depending on the nature of a dispute or conflict, the †Aodaman Community Court shall follow the following strategies for dispute resolution or conflict management:
- (a) Arbitration strategies shall be used in cases of a non-violent nature, whereas adjudication procedures shall be applied in non-negotiable cases of a violent nature.

- (b) Once a case has been reported to the Chief of the †Aodaman traditional community, s/he shall appoint adjudicators/judges to hear the case in the †Aodaman Community Court, which shall comprise Senior Traditional Councillors, Traditional Councillors, and community members deemed to possess the requisite wisdom, fairness and integrity to mediate in disputes.
- (c) The full details pertaining to the bone of contention shall be gathered prior to any hearing by the †Aodaman Community Court, and such investigation may include interviewing the parties to the dispute separately or meeting with witnesses.
- (d) Verbal and written summons to appear before the †Aodaman Community Court on a given date and time at the seat of such court shall be issued to the parties involved in a dispute.
- (e) Before a hearing commences, both parties to the dispute shall take an oath to speak only the truth and to abide by the Community Court's verdict.
- (f) Both parties shall be accorded an opportunity to state their versions of the matters in the dispute at hand.
- (g) Witnesses who may be called by either party to substantiate their cases shall also take an oath to speak only the truth.
- (h) Further investigations may be launched by the †Aodaman Community Court, which may include interviewing the parties to the dispute separately or meeting with witnesses in order to enable the court to deliver a just verdict.
- (i) The appointed judges or adjudicators of the †Aodaman Community Court who have heard the case at hand shall discuss the matter behind closed doors.
- (j) The †Aodaman Community Court may also make use of assessors during discussions of the case before reaching a verdict.
- (k) If the judges or adjudicators of the †Aodaman Community Court should fail to reach a unanimous verdict regarding a case, they can determine such verdict by way of voting.
- (l) Voting to determine a verdict shall be done by way of a 'one person, one vote' secret ballot, with only the Chairperson having both a deliberative and a casting vote to use in case an equal number of votes are cast.
- (m) The final outcome of such a voting process shall be perceived as being the collective decision of the appointed judges or adjudicators of the †Aodaman Community Court in the case at hand.
- (n) The parties to the conflict shall be summoned to the seat of the †Aodaman Community Court on a given time and date, and the final court verdict shall be handed down to them verbally and in writing.
- (o) Both parties to the dispute shall sign the document in which an outline of the verdict is written, signifying that both will abide by such verdict.
- (p) An aggrieved person shall have the democratic right to approach the Ombudsman or courts of law for further relief, as provided for in the Namibian Constitution.

## **5.10 Fines and penalties in cases involving the theft of livestock**

- (a) Fines and penalties in cases involving the theft of livestock may be negotiated between the owner of the livestock and the accused in the presence of the judges or adjudicators of the †Aodaman Community Court.
- (b) A written agreement detailing the fines and penalties imposed by such court shall be signed by both parties.
- (c) The †Aodaman Community Court shall advise the relevant parties on the manner and timing of implementing the said agreement, and shall monitor compliance with it.
- (d) Even if a case of livestock theft has been reported to the Namibian Police and a fine has been imposed on the offender or s/he has been imprisoned, the owner of the stolen livestock does not gain from the retributive justice meted out in such courts, since the offender has not compensated directly for the losses suffered by the owner.
- (e) Therefore, the †Aodaman Community Court shall impose a penalty or a fine to compensate the owner of stolen livestock as follows in order to ensure restorative justice takes place in cases of livestock theft, based on the number of livestock stolen:
  - (i) Theft of 1 (one) goat – Fine of 6 (six) goats
  - (ii) Theft of 1 (one) sheep – Fine of 6 (six) sheep
  - (iii) Theft of 1 (one) head of cattle – Fine of 3 (three) head of cattle
  - (iv) Theft of 1 (one) donkey – Fine of 2 (two) donkeys
  - (v) Theft of 1 (one) horse – Fine of 2 (two) horses
- (f) Should the offender not have the means to compensate the livestock owner, the †Aodaman Community Court shall compel the offender's parents or next-of-kin to compensate the owner for his/her loss as a result of the theft committed by their child or relative.
- (g) Should neither the offender, his/her parents nor next-of-kin own livestock, the value of the head of livestock to be compensated shall be determined by using the existing prices paid per kilogram for livestock on the hoof, and such compensation may then be made in monetary terms commensurate with the value of the livestock fined.

## **5.11 Fines and penalties for various offences**

### **5.11.1 Assault with intent to do grievous bodily harm**

- (a) Assault with an attempt to inflict grievous bodily harm shall be reported to the Namibian Police.
- (b) After having obtained and perused a doctor's medical report to establish the nature and extent of bodily harm as well as the loss of any body



parts, the loss of use of hands or legs, or the loss of eyesight, hearing or mobility, the following sentences shall be passed accordingly:

- (i) Loss of or harm to a tooth: N\$800 (eight hundred Namibia Dollars)
- (ii) Loss of or harm to a hand: N\$400 (four hundred Namibia Dollars)
- (iii) Loss of or harm to a nose: N\$800 (eight hundred Namibia Dollars)
- (iv) Loss of or harm to a breast: N\$2,000 (two thousand Namibia Dollars)
- (v) Loss of or harm to an eye: N\$3,200 (three thousand two hundred Namibia Dollars)
- (vi) Loss of or harm to a foot: N\$3,200 (three thousand two hundred Namibia Dollars)
- (vii) Loss of or harm to a leg: N\$3,200 (three thousand two hundred Namibia Dollars)
- (viii) Loss of or harm to an arm: N\$5,000 (five thousand Namibia Dollars)
- (ix) Loss of or harm to a lip: N\$3,200 (three thousand two hundred Namibia Dollars)
- (x) Loss of or harm to an ear: N\$2,400 (two thousand four hundred Namibia Dollars)
- (xi) Harm to the brain: N\$10,000 (ten thousand Namibia Dollars)

### 5.11.2 **Murder**

- (a) In line with Article 6 of the Namibian Constitution, the †Aodaman Traditional Authority shall demand that the members of the †Aodaman traditional community respect and protect the right to life of each and every individual residing, living, conducting business or roaming about in or on land areas that fall under its jurisdiction.
- (b) The †Aodaman Community Court shall not have the power to prescribe or impose a sentence of death as a competent sentence upon any person, including a murderer.
- (c) However, a family whose next-of-kin was murdered shall be offered some form of restorative justice.
- (d) The relatives of the accused, accompanied by a Traditional Councillor of the †Aodaman Traditional Authority, shall approach the murder victim's family to create a platform for reconciliation and agreement as regards funeral arrangements.
- (e) The relatives of the accused shall contribute towards the cost of the funeral services, be it in the form of offering livestock to be slaughtered or purchasing a casket.
- (f) Upon a murderer being convicted in a court of law, the †Aodaman Community Court shall fine him/her 10 (ten) head of cattle, 9 (nine)



of which shall go to the victim's family, and 1 (one) to the Chief of the †Aodaman traditional community.

**5.11.3 Insult and use of abusive or foul language**

- (a) Insulting or using abusive or foul language towards another person shall be strictly forbidden.
- (b) An offender shall be summoned to appear before the †Aodaman Community Court.
- (c) The offender shall be fined 4 (four) head of cattle, 1 (one) of which shall be given to the Chief or the †Aodaman Traditional Authority.

**5.11.4 Cursing or wishing a person bad luck**

- (a) If a person dies after s/he was cursed, the offender shall be fined 8 (eight) head of cattle.
- (b) If the person who has been cursed should end up having a mishap such as an accident, the offender shall be fined 6 (six) head of cattle.
- (c) In either case, 1 (one) head of cattle shall go to the Chief or the †Aodaman Traditional Authority.

**5.11.5 Accusing a person falsely**

- (a) Making false allegations or testifying against a person and making false claims shall be prohibited since this tarnishes a person's image.
- (b) Any person found to have made false statements against another in the †Aodaman Community Court shall be sentenced to a minimum fine of N\$100 (one hundred Namibia Dollars) and a maximum fine of N\$200 (two hundred Namibia Dollars).

**5.11.6 Failure to appear before the †Aodaman Community Court, contempt of the †Aodaman Community Court, and causing disturbance during the proceedings the †Aodaman Community Court**

- (a) Failure to appear before the †Aodaman Community Court when summoned shall carry a minimum fine of N\$100 (one hundred Namibia Dollars) and a maximum fine of N\$200 (two hundred Namibia Dollars).
- (b) Contempt of the †Aodaman Community Court shall carry a minimum fine of N\$100 (one hundred Namibia Dollars) and a maximum fine of N\$200 (two hundred Namibia Dollars).
- (c) Causing disturbance during the proceedings of the †Aodaman Community Court shall carry a minimum fine of N\$200 (two hundred Namibia Dollars) and a maximum fine of N\$600 (six hundred Namibia Dollars).
- (d) An amount of N\$100 (one hundred Namibia Dollars) of the fined amounts shall be paid over to the Chief or the †Aodaman Traditional Authority in each case.

**5.11.7 Unauthorised harvesting of protected and/or scarce veld fruits or other veld food for commercial purposes**

- (a) Depending on the quantity and rarity of the natural resources harvested, any person who harvests rare veld fruits or other veld food for commercial purposes without obtaining prior permission from the ǀAodaman Traditional Authority shall be sentenced to a minimum fine of N\$300 (three hundred Namibia Dollars) and a maximum fine of N\$700 (seven hundred Namibia Dollars).
- (b) Any person that harvests protected veld fruits or other veld foods shall be reported to the nearest office of the Ministry of Environment and Tourism.

**5.11.8 Bribery**

- (a) Any person who solicits a bribe or entices another person to pay a bribe shall be fined a minimum of N\$400 (four hundred Namibia Dollars) and a maximum of N\$800 (eight hundred Namibia Dollars).
- (b) Any person who accepts a bribe shall be sentenced to a minimum of N\$600 (six hundred Namibia Dollars) and a maximum of N\$12,000 (twelve thousand Namibia Dollars).

**5.11.9 Causing a wildfire in the veld**

- (a) Taking into account that wildfires or veld fires not only cause ecological damage, but also destroy grazing and threaten the livelihoods of many community members in the process, causing such fires shall be regarded as a serious offence.
- (b) A first-time offender shall be fined 4 (four) head of cattle, 1 (one) of which shall be for the Chief or the ǀAodaman Traditional Authority.
- (c) A subsequent offender shall be fined 6 (six) head of cattle, 2 (two) of which shall be for the Chief or the ǀAodaman Traditional Authority.
- (d) The remainder of the cattle fined shall be kept by the Chief and shall be distributed among the families that have suffered livestock losses as a result of such fires.
- (e) The fine may also be paid in monetary terms, that is, the cash equivalent of the market value of the livestock fined.
- (f) If the wildfire was started accidentally through negligence on the part of an offender, s/he shall be fined 1 (one) head of cattle and 1 (one) head of small stock, both of which shall be given to the Chief.
- (g) If the fire was found to be started deliberately, the offender shall be fined a minimum of N\$100 (one hundred Namibia Dollars) and a maximum of N\$200 (two hundred Namibia Dollars), and the offence shall be reported to the Namibian Police.

#### **5.11.10 Adultery**

- (a) Any person who commits adultery by having an intimate sexual relationship with another married person's spouse, and who would thereby cause such married couple to part ways, shall be summoned to the †Aodaman Community Court and fined 4 (four) head of cattle, of which –
  - (i) 2 (two) shall serve as compensation to the aggrieved spouse
  - (ii) 1 (one) shall be given to the Chief of the †Aodaman for ensuring that the Community Court remains functional, and
  - (iii) 1 (one) shall go towards the †Aodaman Traditional Authority to serve as compensation for the time spent on the case.
- (b) The fine may also be paid in monetary terms, that is, the cash equivalent of the market value of the livestock fined.
- (c) All cases of rape that occur as a result of adultery shall be reported to the Namibian Police, and, irrespective of such report, the rapist shall be fined 4 (four) head of cattle, all of which shall be handed over to the victim for both restoration of dignity and retributive justice.
- (e) A male person who commits adultery and impregnates another man's wife shall be fined 6 (six) head of cattle, 5 (five) of which shall go to the husband of the woman he has impregnated, and 1 (one) to the Chief.
- (f) A female person who commits adultery and falls pregnant with the child of another woman's spouse shall be fined 6 (six) head of cattle, 5 (five) of which shall go to the woman whose husband was responsible for the impregnation, and 1 (one) to the Chief.

#### **5.11.11 Bestiality**

- (a) Sexual intercourse with animals, in particular domesticated animals such as livestock and pets, shall be forbidden.
- (b) The †Aodaman Community Court shall fine an offender 7 (seven) head of cattle, 6 (six) of which shall go to the owner of the animal, and 1 (one) to the Chief.

#### **5.11.12 Homosexuality and lesbianism**

- (a) Although the Namibian Constitution outlines various fundamental rights and freedoms in Chapter 3, homosexuality and lesbianism are not pertinently mentioned as part of those basic human rights that shall be respected.
- (b) In the same light, the cultural and traditional values and norms of the †Aodaman traditional community do not condone homosexuality and lesbianism, in spite of the fact that they prevail among members of the said community.

- (c) Each of the persons involved in homosexuality or lesbianism shall be fined 2 (two) head of cattle, 1 (one) of which shall go to the Chief, and 1 (one) to the †Aodaman Traditional Authority.

#### **5.11.13 Impregnation of an under-age child**

- (a) Any adult person who engages in an unlawful relationship which includes an intimate sexual relationship with a child under the age of 16 (sixteen) years shall be reported to the Namibian Police for statutory rape.
- (b) The rapist shall be fined 8 (eight) head of cattle, 6 (six) head of which shall go to the raped child in compensation for the pain inflicted and for partial restoration of the dignity that was disrespected, 1 (one) head shall go to the Chief, and 1 (one) to the †Aodaman Traditional Authority.
- (c) Any male person who impregnates a girl under the age of 16 outside marriage shall go to her parents with 2 (two) ewes or 2 (two) nanny-goats that shall be used to pave the way for talks for forgiveness between the elders of their respective family members.

#### **5.11.14 Illegal impounding of another person's private property**

- (a) Impounding another person's property without the consent of the owner shall be tantamount to committing the criminal offence of theft.
- (b) Cases of this nature shall be reported to the Namibian Police by the owner of the impounded property.
- (c) If the owner should discover that his/her impounded property has been damaged or lost, the †Aodaman Community Court shall instruct the offender to replace such damaged or lost items in such reasonable period of time as it may determine.

#### **5.11.15 Incest**

- (a) Male and female siblings and the children of female siblings shall –
  - (i) greet one another with the left hand as a token of mutual respect.
  - (ii) not discuss issues relating to sex or sexuality, as has been the custom for our ancestors for ages and as the older members of the †Aodaman traditional community continue to uphold
  - (iii) not be permitted to become involved as sexual partners or to get married to each other since this is regarded as incest.
- (b) Any person that would have intimate sexual intercourse with his/her grandparent, parent, sibling, child and/or grandchild shall be fined the equivalent of 7 (seven) head of cattle or their cash equivalent, 1 (one) head or the cash equivalent of which shall go to the Chief of the †Aodaman traditional community, 1 (one) to the †Aodaman Traditional Authority, and 5 (five) to the victim.

**5.11.16 Settling on land without prior approval from the †Aodaman Traditional Authority**

- (a) Leasehold and grazing rights on communal land under the jurisdiction of the †Aodaman Traditional Authority shall be dealt with in accordance with the provisions of the Communal Land Reform Act, 2002 (No. 5 of 2002).
- (b) No person shall have the right to farm on communal land under the jurisdiction of the †Aodaman Traditional Authority without the written authorisation of the Chief of the †Aodaman traditional community.
- (c) Should a person settle on an area of land under the jurisdiction of the †Aodaman Traditional Authority without having obtained prior approval to do so from the Chief of the †Aodaman traditional community, a case of illegal invasion of land shall be filed with the Namibian Police.
- (d) Any such person shall be fined 5 (five) head of cattle or 20 head of small stock for having settled on †Aodaman communal land without having been granted due permission, and shall thereafter vacate the area thus illegally occupied.

**5.11.17 Bride price (*aba gomas*)**

- (a) Wedding negotiations shall, apart from the determination of the bride price, serve as a platform during which the relatives of the bride- and bridegroom-to-be would express their respective expectations as well as to build bonds.
- (b) No marriage amongst members of the †Aodaman traditional community shall be regarded as having been duly concluded if it has not been preceded by negotiations between the families of the bride and the bridegroom and an agreement has been reached on the amount and/or size of the bride price, known as the *aba gomas*.
- (c) Agreements reached after wedding negotiations in terms of the bride price, including decisions on spousal burial sites, shall be summarised in writing to serve as evidence of an agreement reached between the two families, and shall reflect the names of the leaders of the negotiating teams as well as the persons that intend to get married, and such agreement shall be signed by these persons as well as by witnesses to the parties' signatures.
- (d) The bridegroom-to-be and his family shall hand over 3 (three) cows with heifers to the relatives of the bride-to-be as a bride price.

**5.11.18 Transportation of livestock**

- (a) The transportation of livestock after nightfall from one place to another on communal land under the jurisdiction of the †Aodaman Traditional Authority without written permission from the Chief shall be a serious offence and punishable under †Aodaman customary law.

- (b) No person shall have the right to transport livestock on the hoof on communal land falling under the jurisdiction of the †Aodaman Traditional Authority either during the day or at night without written authorisation from the Chief.
- (c) Any person transporting livestock after nightfall without written permission from the Chief shall be reported to the Namibian Police for stock theft if it should transpire that livestock belonging to others was transported on the hoof without their consent.

**5.11.19 Unsustainable harvesting of natural resources and unauthorised mining of mineral resources**

- (a) No exploitation and/or mining activities shall be carried out on communal land falling under the jurisdiction of the †Aodaman Traditional Authority without the written authorisation of the Chief.
- (b) No person shall be permitted to carry out mining operations in land areas that fall under the jurisdiction of the †Aodaman Traditional Authority.
- (c) Written consent from the Chief of the †Aodaman traditional community shall first be obtained before activities that might adversely affect the environment or livelihood of the †Aodaman traditional community may be embarked upon by the state or any entity authorised by the state on communal land falling under the jurisdiction of the †Aodaman Traditional Authority.
- (d) Members of the †Aodaman traditional community as well as those that inhabit †Aodaman communal land areas shall conserve the environment and thereby maintain the ecosystem, and shall use the natural resources at their disposal in a sustainable manner.
- (e) Any person that harvests natural resources in an unsustainable manner shall be fined an amount of money that is in line with the fees prescribed in laws regulating the environment in Namibia.
- (f) Any person carrying out illegal mining activities in land areas that fall under the jurisdiction of the †Aodaman Traditional Authority shall be liable to a fine of N\$400 (four hundred Namibia Dollars).

## **6. Gender**

- 6.1 In these changing times of gender roles and the demand for gender equality, one of the main duties of the Youth Council, the Women's Council and the Council of Elders of the †Aodaman traditional community shall be to promote the principle of gender equality amongst male and female members of the said community.
- 6.2 The youth shall be brought up to understand fully that males and females are equal in terms of the Namibian Constitution, and that men and women, as well as the boy child and girl child, shall enjoy equal rights in all spheres of their political, social, cultural and economic lives.

- 6.3 Both girls and boys shall be submitted to formal education as well as to institutions of higher learning to further their education.
- 6.4 At all times, women and men shall be allowed to participate as equals during discussions at the meetings of the various structures of leadership as well as at any meeting conducted under the auspices of the †Aodaman traditional community, and shall be allowed to nominate, be nominated, vote for, or be voted for to serve in leadership positions on the structures set up by the said community.

## **7. Elders of the †Aodaman traditional community**

- 7.1 There shall be a Council of Elders for senior citizens of the †Aodaman traditional community, to which Council all individuals of the said community above the age of 60 (sixty) years shall qualify as members.
- 7.2 All members of the Council of Elders and all other senior citizens among the †Aodaman traditional community shall be entitled to be shown respect by children, the youth, and younger adult members of the †Aodaman traditional community.
- 7.3 The children, grandchildren, great-grandchildren and next-of-kin of elderly members of the †Aodaman traditional community shall take proper care of their elderly parents, grandparents, great-grandparents and relatives.
- 7.4 The †Aodaman Traditional Authority shall network and collaborate with individuals and institutions in respect of ensuring development of social homes or old age homes, and shall negotiate discounts on services and goods for senior citizens among the †Aodaman traditional community on communal land falling under its jurisdiction.
- 7.5 Senior citizens among the †Aodaman traditional community who abuse alcohol or drugs shall be referred to state-run rehabilitation centres to overcome such habits and to conduct themselves in a manner that serves as an example for the younger generation in the said community.

## **8. Marriage and divorce**

- 8.1 Although our ancestors practised polygamy, whereby one man would marry more than one wife and even keep concubines and concurrent multiple partnerships, polygamous marriages shall be discouraged amongst members of the †Aodaman traditional community due to the HIV and AIDS pandemic.
- 8.2 The sons and daughters of male and female siblings shall be permitted to discuss issues concerning sex and sexuality, but shall be forbidden to engage in intimate sexual relationships since this is regarded as incest.
- 8.3 Intimate relationships between close male and female relatives of both the core and the extended members of the †Aodaman traditional community shall be regarded as incest, according to the cultural and traditional practices of such community, and negotiations for the conclusion of marriages between such close relatives shall not be permitted.

- 8.4 Male members of the †Aodaman traditional community shall be regarded as the heads of their households, and shall be responsible for the welfare and protection of their core and extended families, whilst treating women, children and the elderly with utmost respect and without using physical violence or emotional abuse to prove their manhood.
- 8.5 Female members of the †Aodaman traditional community shall be regarded as partners in charge of domestic affairs in their households, and shall serve as advisors to their spouses and/or partners, but shall not allow any form of physical or emotional abuse from their male partners.
- 8.6 Male and female members of the †Aodaman traditional community who have cohabited for a period longer than 5 (five) years and from which cohabitation children have been born shall be deemed as being married, and shall be compelled to formalise their relationship by means of approaching the Chief to issue them with a marriage certificate.
- 8.7 Weddings among members of the †Aodaman traditional community shall be preceded by negotiations during which relatives of the male person shall ask for permission from the relatives of his intended wife to marry into her family.
- 8.8 Married adult members of the †Aodaman traditional community shall offer premarital counselling to persons who intend to marry.
- 8.9 Should one of the two persons intending to marry no longer wish to proceed with the wedding plans after marriage negotiations have been concluded and permission to marry has been granted, such person shall be summoned by the †Aodaman Community Court, and shall pay such reasonable damages to the deserted aggrieved party as it may determine.
- 8.10 Upon conclusion of the marriage, the female spouse shall assume the surname of her male partner, and the standard orthography of †Nūkhoegowab shall be used for indicating her gender in her surname.
- 8.11 Children born in the †Aodaman traditional community shall be given traditional †Nūkhoegowab names that pay homage to prevailing circumstances and/or noteworthy events that took place during conception, pregnancy or labour.
- 8.12 However, no child shall be given a name that would be offensive or vulgar, or that would be embarrassing or create animosity.
- 8.13 When a couple experiences marital problems, the relatives that were present at the wedding negotiations as well as those couples in whose care and custody their marriage was placed shall be called to discuss the matters at hand and to try to resolve them amicably.
- 8.14 If no children were born to the couple either before or during the marriage by the time it is to be dissolved, and if the dissolution of the marriage is based on the commission of adultery by the male partner, he shall be liable to pay damages, but without any additional penalty, to the aggrieved party amounting to a value equal to the bride price already paid by his relatives.
- 8.15 If no children were born to the couple either before or during the marriage by the time it is to be dissolved, and if the dissolution of the marriage is based on the commission of adultery by the female partner, she shall be liable to repay the



exact bride price that her relatives received from the bridegroom's relatives in full, but without any additional penalty.

- 8.16 Assets accrued to a married couple during the course of their married life shall be divided between the spouses according to an order made by a competent court.
- 8.17 Irrespective of whom a competent court of law grants custody of a child born to a couple, whether married or not, according to the culture and customs of the †Aodaman traditional community, children shall belong to both parents and, therefore, both parents shall have equal access to such child once the court grants a final divorce order.

## **9. Inheritance**

- 9.1 Upon his/her spouse's death, the surviving partner shall inherit 40% (forty per cent) of the deceased estate, whilst the remaining 60% (sixty per cent) shall be inherited in equal shares by the deceased's children and parents.
- 9.2 Any child of a deceased member of the †Aodaman traditional community, whether such child was born within or outside marriage, shall be entitled to a share equal to that inherited by his/her siblings in the deceased estate.
- 9.3 Should a dispute arise in the division of the estate of a deceased member of the †Aodaman traditional community, the †Aodaman Community Court shall intervene and ensure that the estate is subdivided fairly in the spirit of equity and equality of children's rights as siblings.

## **10. Land, farming and conditions for tourism activities**

- 10.1 The †Aodaman traditional community shall have both collective and individual ownership rights over the control and use of communal land falling under the jurisdiction of the †Aodaman Traditional Authority, in line the provisions of the Communal Land Reform Act.
- 10.2 The †Aodaman traditional community shall have the right to pursue the case for the return of its ancestral lands that were confiscated during the colonial era, utilising Namibian and international laws in order to eventually have such alienated lands restored to it to form part of the land falling under the jurisdiction of the †Aodaman Traditional Authority.
- 10.3 The †Aodaman Traditional Authority shall be obliged, on behalf of the †Aodaman traditional community, to seek compensation for the loss of ancestral lands that cannot be returned to such community to form part of the land falling under the jurisdiction of the †Aodaman Traditional Authority.
- 10.4 No member of the †Aodaman traditional community shall be removed from communal land falling under the jurisdiction of the †Aodaman Traditional Authority –
  - (a) without his/her consent
  - (b) forcibly

- (c) without fair compensation for the land to be confiscated
  - (d) without an option to buy such land, or
  - (e) without notifying the Chief in writing of such removal.
- 10.5 All persons farming on communal land falling under the jurisdiction of the †Aodaman Traditional Authority shall earmark and/or brand their livestock in order to identify an animal's owner.
- 10.6 All persons farming on land falling under the jurisdiction of the †Aodaman Traditional Authority shall contribute a predetermined amount to maintain communal water infrastructure for the benefit of their livestock and their households.
- 10.7 All persons farming on land falling under the jurisdiction of the †Aodaman Traditional Authority shall manage and care for their livestock in accordance with veterinary regulations in Namibia, and shall carry only the authorised head of livestock based on the size of their allocated farming unit in order to avoid land degradation through overgrazing and eventual desertification.
- 10.8 No individual or entity shall embark on setting up or operating tourism ventures without written authorisation granted by the Chief in concurrence with the †Aodaman traditional community.
- 10.9 The †Aodaman Traditional Authority may, with the †Aodaman traditional community's consent, enter into agreements with tour operators or persons or entities that run tourism activities for gain on communal land falling under the jurisdiction of the †Aodaman Traditional Authority, and proceeds from any levies or royalties paid in terms of such agreements shall be deposited into the †Aodaman Traditional Community Trust Fund to be utilised, inter alia, to –
- (a) finance projects on communal land under the jurisdiction of the †Aodaman Traditional Authority to the benefit of members of the †Aodaman traditional community, in order to uplift the culture and preserve the cultural sites, works of art and literary works of the said community
  - (b) meet the administrative costs of running the office of the †Aodaman Traditional Authority
  - (c) meet the costs of performing any of the functions or duties of the †Aodaman Traditional Authority as contemplated in the Council of Traditional Leaders Act, the Traditional Authorities Act, and the customary law of the †Aodaman traditional community, on communal land under the jurisdiction of the †Aodaman Traditional Authority, and
  - (d) meet any cost that the †Aodaman traditional community may agree upon.
- 10.10 No person or entity shall, without the written authorisation of the Chief, be permitted to set up a facility from which alcoholic beverages can be sold on communal land under the jurisdiction of the †Aodaman Traditional Authority.
- 10.11 The sale of alcoholic beverages to children under the age of 18 (eighteen) years shall be forbidden on communal land falling under the jurisdiction of the †Aodaman Traditional Authority.
- 10.12 All trade in illicit drugs on communal land under the jurisdiction of the †Aodaman Traditional Authority shall be outlawed.

## **11. Children**

- 11.1 According to the cultural and traditional practices, norms and values of the †Aodaman traditional community, a child shall be regarded as the treasured property of the entire community, and shall therefore be treated with the greatest care and respect, and be disciplined with love by all the members of the said community.
- 11.2 Children shall be expected to respect and obey the verbal reprimands of all adult members of the †Aodaman traditional community at all times.
- 11.3 The †Aodaman traditional community shall respect the rights of the child as stipulated in the Namibian Constitution and other national laws, as well as in the regional, continental and international instruments of the Southern African Development Community (SADC), the African Union (AU), and the United Nations (UN) that Namibia has ratified.
- 11.4 Given that corporal punishment is outlawed in the Republic of Namibia, no child of the †Aodaman traditional community shall be subjected to caning, to being beaten with any object, or to any other physical or verbal abuse.

## **12. HIV and AIDS**

- 12.1 The †Aodaman traditional community acknowledges that the HIV and AIDS pandemic has the potential of reversing the gains of independence by robbing the Namibian nation of skilled human resources in the peak of their productive lives, and pledges to participate in as well as to support all efforts that are geared towards mitigating the impact of HIV and AIDS.
- 12.2 Members of the †Aodaman traditional community shall be encouraged to remain with one faithful partner, to avoid concurrent multiple sexual partnerships, and to practise safe sex by using condoms and femidoms if they date more than one partner simultaneously.
- 12.3 The †Aodaman traditional community shall respect the right to confidentiality of an HIV-positive member among them.
- 12.4 The †Aodaman traditional community shall recognise the right of all HIV-positive persons to have access to and to use traditional herbs and medicines as well as modern medicines such as antiretroviral drugs.
- 12.5 Members of the †Aodaman traditional community shall be discouraged from discriminating against HIV-positive members among them.
- 12.6 Members of the †Aodaman traditional community shall be discouraged from discriminating against members among them who are living with AIDS.
- 12.7 Home-based-care initiatives shall be encouraged through the identification and training of home-based caregivers.
- 12.8 Orphans and other vulnerable children who are either infected or affected by HIV and AIDS shall be supported financially if there are adequate funds in the †Aodaman Traditional Community Trust Fund, or they shall otherwise be referred to state organs and non-governmental organisations for support and care.

### **13. Traditional healing ceremonies and practices**

- 13.1 Although the †Aodaman traditional community recognises and encourages the use of modern medical health systems and practices, traditional healing ceremonies on communal land under the jurisdiction of the †Aodaman Traditional Authority shall be permitted, given that the community also attaches value to the role that herbalists, witchdoctors, massage therapists and spiritual healers can play in the healing and curing of sick and distraught members of the said community.
- 13.2 Herbalists, witchdoctors, massage therapists and spiritual healers shall only be permitted to perform their ceremonies and/or practices on communal land under the jurisdiction of the †Aodaman Traditional Authority if they have been registered as such by the Ministry of Health and Social Welfare and have been granted written authorisation by the Chief to perform such ceremonies and practices.
- 13.3 Herbalists, witchdoctors, massage therapists and spiritual healers operating on communal land under the jurisdiction of the †Aodaman Traditional Authority shall –
  - (a) be forbidden to conduct male circumcision with objects that are not sterilised.
  - (b) be forbidden to perform female genital mutilation.
  - (c) be forbidden to use medicines that are not registered with the Ministry of Health and Social Services for treating their patients.
  - (d) be forbidden to use human body parts to treat patients.
  - (e) be forbidden to perform healing ceremonies that would demand patients to make human sacrifices.
  - (f) be forbidden to use protected species of plants or animals for healing ceremonies and practices.
  - (g) be held accountable for their actions and their authorisation to practise on such communal land may be withdrawn if they fail to honour the abovementioned rules.

### **14. Meetings**

- 14.1 Navarre Post in the Kunene Region shall be the traditional village and cultural heritage site where the †Aodaman traditional community will preserve its works of art and literary works, and perform annual traditional ceremonies and functions in April.
- 14.2 Meetings of the †Aodaman Traditional Authority shall be held at Inhoek Post No. 42 in the Kunene Region as well as at suboffices in various constituencies in Namibia's Regions in order to bring services closer to the members of the †Aodaman traditional community in the diaspora.
- 14.3 The Chief shall serve as Chairperson at the assembly of the †Aodaman traditional community and the meetings of the †Aodaman Traditional Authority.

## **15. Amendments to †Aodaman customary law**

- 15.1 Any amendment to †Aodaman customary law shall only be effected at either Navarre Post or Inhoek Post No. 42 in the Kunene Region during the assembly of the †Aodaman traditional community chaired by the Chief, and only if 50% (fifty per cent) of those present at such assembly agree thereto.

## **16. Code of Conduct for the †Aodaman Traditional Authority**

- 16.1 The following rules of conduct shall be in force and shall apply to all the members of the †Aodaman Traditional Authority, and any leader of the †Aodaman traditional community shall at all times comply with the provisions of the Namibian Constitution, the Council of Traditional Leaders Act, the Traditional Authorities Act, and †Aodaman customary law.
- 16.2 The rules contained in this Code of Conduct shall conform with †Aodaman customary law, and are derived from the Namibian Constitution as well as the existing rules of conduct for leaders of other recognised Traditional Authorities in Namibia, where applicable, in so far as this Code of Conduct does not infringe on †Aodaman customary law.
- 16.3 Any leader of the †Aodaman Traditional Authority shall be summoned to appear before the †Aodaman Community Court if s/he is alleged or accused to have acted contrary to this Code of Conduct provided that s/he is presumed innocent until proved guilty by such court.
- 16.4 Any leader of the †Aodaman Traditional Authority and anyone serving on any structure established by the †Aodaman Traditional Authority shall be guilty of misconduct if s/he –
- (a) contravenes or fails to comply with any provisions in this Code of Conduct relating to his/her position
  - (b) performs or causes or permits to be performed, or connives at, any act prejudicial to the administration or discipline of †Aodaman traditional community affairs by the †Aodaman Traditional Authority
  - (c) is negligent or indolent in the performance of his/her duties as a leader of the †Aodaman traditional community and fails to maintain his/her commitment towards furthering the cause to uplift the livelihood, and protect the basic human rights and interests, of the members of the †Aodaman traditional community
  - (d) fails to foster a mutually respectful, good, peaceful, harmonious and progressive working relationship with the members or fellow leaders of the †Aodaman traditional community
  - (e) conducts him-/herself in a disgraceful, improper or unbecoming manner causing embarrassment to the †Aodaman traditional community and Traditional Authority

- (f) is grossly discourteous to any person, irrespective of whether or not s/he is performing his/her duties as a leader of the †Aodaman traditional community
- (g) uses intoxicating liquor excessively or uses illicit drugs, rendering him/her incapable of performing his/her duties as a leader of the †Aodaman traditional community effectively, efficiently, and in a respectable manner
- (h) accepts or demands any bribe, commission, fee or reward, pecuniary or otherwise, to which s/he is not entitled by virtue of his/her position as a leader of the †Aodaman traditional community, in respect of the performance of his/her duties as such leader
- (i) fails to report immediately to the †Aodaman Traditional Authority the offer of any such bribe, fee, commission or reward
- (j) fails to safeguard the property of the †Aodaman Traditional Authority or misappropriates or improperly uses any property of the †Aodaman Traditional Authority, with or without committing a criminal offence in doing so
- (k) fails to consistently propagate the promotion and preservation of the intangible and tangible cultural heritage, language, traditions, values and customs of the †Aodaman traditional community
- (l) disobeys, disregards or wilfully defaults in carrying out any lawful order given to him/her by the †Aodaman Traditional Authority, or by word or conduct shows insubordination through disrespect or disobedience towards the †Aodaman Traditional Authority
- (m) discloses or leaks any confidential information in relation to the affairs of the †Aodaman traditional community that s/he obtained in the performance of his/her duties as a leader of the †Aodaman traditional community to any person or to the print or electronic media, except in official meetings of the †Aodaman traditional community or with the consent of the †Aodaman Traditional Authority
- (n) uses confidential information gained by or conveyed to him/her by virtue of his/her position as a leader of the †Aodaman traditional community to promote his/her own personal interest, or prejudices the interest of a fellow leader or an ordinary member of the †Aodaman traditional community
- (o) fails to place the interest of the †Aodaman Traditional Authority and that of the traditional community above his/her own personal interest
- (p) uses his/her position or property of the †Aodaman Traditional Authority to promote or prejudice the interests of any political party
- (q) uses his/her position or utilises the property of the †Aodaman Traditional Authority to promote or prejudice the interest of any private business or private agency or any individual, except with the consent of the †Aodaman Traditional Authority in the performance of his/her duties
- (r) with a view to obtaining any privilege or advantage in relation to his/her position or duties as a leader of the †Aodaman traditional community, or

to cause prejudice or injury to the image or reputation of the †Aodaman Traditional Authority or a fellow leader of the †Aodaman traditional community, makes a false or incorrect statement, knowing it to be false or incorrect

- (s) arbitrarily or unlawfully attacks the honour or reputation of any member of the †Aodaman traditional community or any fellow leader of the †Aodaman traditional community by unjustifiably criticising or questioning the integrity of any member of the said community or any fellow leader of the said traditional community in public
- (t) fails to treat all members of the †Aodaman traditional community and fellow leaders of such community equally, impartially and consistently without discrimination of any kind, irrespective of their socio-economic status, religious beliefs, political or other expressed opinions
- (u) arbitrarily or unlawfully interferes with the privacy, home, family or correspondence of any member of the †Aodaman traditional community or any fellow leader of such community
- (v) acts in a manner that is unbecoming and not exemplary to the fellow leaders of the †Aodaman traditional community and the †Aodaman traditional community
- (w) fails to take appropriate steps to protect all the women and children, including orphans and other vulnerable children, and the elderly living in his/her area of jurisdiction from all forms of any physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, or sexual abuse
- (x) fails to identify, investigate, follow up on and report or refer any instances of maltreatment of women, children or the elderly for judicial involvement
- (y) is accused of having committed a crime, or is arrested, brought before a competent court and found guilty on a charge of rape, fraud, theft or murder, or
- (z) fails to ensure that offenders charged with fines by the Community Court honour their obligations and advises the offenders not to pay such fines as imposed by the Community Court.

## **17. Amendments to the Code of Conduct**

- 17.1 Any amendments to the Code of Conduct for leaders of the †Aodaman Traditional Authority shall be effected only at either Navarre Post or Inhoek Post No. 42 in the Kunene Region, during an assembly of the †Aodaman traditional community under the chairpersonship of the Chief.
- 17.2 Any amendment to the Code of Conduct shall only be effected if 51% (fifty-one per cent) of the majority of the assembly agrees thereto.

## **18. Social standing (Legal accountability/responsibility)**

- 18.1 The †Aodaman Traditional Authority shall be a juristic person by virtue of its having been established in terms of section 2(1) of the Traditional Authorities Act, and shall, therefore, be empowered to sue or may be sued in a court of law by any leader of the †Aodaman traditional community who has been brought before the Community Court.
- 18.2 S/he shall have the democratic right to approach the Council of Traditional Leaders, the relevant Minister, the Ombudsman or any court of law in accordance with the Namibian Constitution, if s/he is aggrieved by the way the case brought before the Community Court was handled or by the outcome of an appeal lodged with the Chief of the †Aodaman Traditional Authority in a case.



## CERTIFICATE OF CONSENT TO PUBLISH

UNIVERSITY OF NAMIBIA

FACULTY OF LAW

HUMAN RIGHTS AND DOCUMENTATION CENTRE

### RE: CONSENT TO PUBLICATION

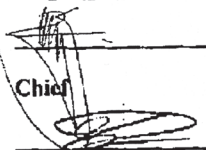
I, the undersigned, Chief of the #Aodaman Traditional Authority, hereby give consent to the Human Rights and Documentation Centre, to publish the following documents of the #Aodaman Traditional Authority:

1. The Customary Laws
2. The Community Profile
3. Picture of the Chief
4. Logo of the Traditional Authority

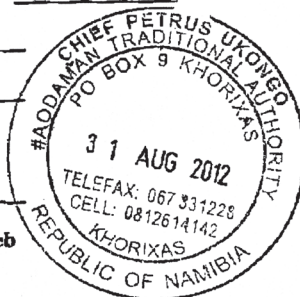
I acknowledge that the Human Rights and Documentation Centre will publish the laws in our indigenous language ( \_\_\_\_\_ ), as well as the English language. I am familiar with the contents of the laws that will be published and further acknowledge that they were prepared by my traditional authority.

Signed on this 31 day of August 2012

At IKHORIXAS

Chief  


For HRDC: Mr. A. Gairiseb





# **ANNEXURE 1**

## **STATUTES**



# **ANNEXURE 1A**

## **EXCERPTS FROM THE NAMIBIAN CONSTITUTION**

### **Article 19          Culture**

Every person shall be entitled to enjoy, practice, profess, maintain and promote any culture, language, tradition or religion subject to the terms of this Constitution and further subject to the condition that the rights protected by this article do not impinge upon the rights of others or the national interest.

### **Article 66          Customary and Common Law**

- (1) Both the customary law and the common law of Namibia in force on the date of Independence shall remain valid to the extent to which such customary or common law does not conflict with this Constitution or any other statutory law.
- (2) Subject to the terms of this Constitution, any part of such common law or customary law may be repealed or modified by Act of Parliament, and the application thereof may be confined to particular parts of Namibia or to particular periods.

### **Article 102          Structures of Regional and Local Government**

- (1) For purpose of regional and local government, Namibia shall be divided into regional and local units, which shall consist of such region and Local Authorities as may be determined and defined by Act of Parliament.
- (2) The delineation of the boundaries of the regions and Local Authorities referred to in Paragraph (1) shall be geographical only, without any reference to the race, colour or ethnic origin of the inhabitants of such areas.
- (3) Every organ of regional and local government shall have a Council as the principal governing body, freely elected in accordance with this Constitution and the Act of Parliament referred to in Paragraph (1), with an executive and administration which shall carry out all lawful resolutions and policies of such Council, subject to this Constitution and any other relevant laws.
- (4) For the purposes of this chapter, a Local Authority shall include all municipalities, communities, village councils and other organs of local government defined and constituted by Act of Parliament.
- (5) There shall be a Council of Traditional Leaders to be established in terms of an Act of Parliament in order to advise the President on the control and utilisation of communal land and on all such other matters as may be referred to it by the President for advice.

### **Article 140          The Law in Force at the Date of Independence**

- (1) Subject to the provisions of this Constitution, all laws which were in force immediately before the date of Independence shall remain in force until repealed or amended by Act of Parliament or until they are declared unconstitutional by a competent Court.
- (2) Any powers vested by such laws in the Government, or in a Minister or other official of the Republic of South Africa shall be deemed to vest in the Government of the Republic of Namibia or in a corresponding Minister or official of the Government of the Republic of Namibia, and all powers, duties and functions which so vested in the Government Service Commission, shall vest in the Public Service Commission referred to in Article 112.

- (3) Anything done under such laws prior to the date of Independence by the Government, or by a Minister or other official of the Republic of South Africa shall be deemed to have been done by the Government of the Republic of Namibia or by a corresponding Minister or official of the Government of the Republic of Namibia, unless such action is subsequently repudiated by an Act of Parliament, and anything so done by the Government Service Commission shall be deemed to have been done by the Public Service Commission referred to in Article 112, unless it is determined otherwise by an Act of Parliament.
- (4) Any reference in such laws to the President, the Government, a Minister or other official or institution in the Republic of South Africa shall be deemed to be a reference to the President of Namibia or to a corresponding Minister, official or institution in the Republic of Namibia and any reference to the Government Service Commission or the government service, shall be construed as a reference to the Public Service Commission referred to in Article 112 or the public service of Namibia.
- (5) For the purpose of this article the Government of the Republic of South Africa shall be deemed to include the Administration of the Administrator-General appointed by the Government of South Africa to administer Namibia, and any reference to the Administrator-General in legislation enacted by such Administration shall be deemed to be a reference to the President of Namibia, and any reference to a Minister or official of such Administration shall be deemed to be a reference to a corresponding Minister or official of the Government of the Republic of Namibia.

**ANNEXURE 1B**  
**TRADITIONAL AUTHORITIES ACT 25 OF 2000**  
[ASSENTED TO 21 DECEMBER 2000]  
[DATE OF COMMENCEMENT: 17 MAY 2001]  
*(Signed by the President)*

**ACT**

**To provide for the establishment of traditional authorities and the designation, election, appointment and recognition of traditional leaders; to define the powers, duties and functions of traditional authorities and traditional leaders; and to provide for matters incidental thereto.**

**ARRANGEMENT OF SECTIONS**

- 1 Definitions
- 2 Establishment of traditional authorities
- 3 Powers, duties and functions of traditional authorities and members thereof
- 4 Designation of chief or head of traditional community
- 5 Prior notification of designation of chief or head of traditional community
- 6 Recognition of chief or head of traditional community
- 7 Powers, duties and functions of chief or head of traditional community
- 8 Removal and succession of chief or head of traditional community
- 9 Establishment of Chief's Council and Traditional Council, and powers, duties and functions thereof
- 10 Appointment of senior traditional councillors, traditional councillors and secretary, and their powers, duties and functions
- 11 Use of traditional titles
- 12 Settlement of disputes
- 13 Powers of investigation committee
- 14 Limitation of powers of traditional authorities
- 15 Holding of political office by chief or head of traditional community
- 16 Relationship of traditional authorities with government organs
- 17 Payment of allowances to traditional leaders
- 18 Assets and Trust Fund of traditional community
- 19 Regulations
- 20 Repeal of laws and savings
- 21 Construction of a certain expression
- 22 Short title and commencement

**1 Definitions**

In this Act, unless the context indicates otherwise –

**“chief”** means the supreme traditional leader of a traditional community designated in accordance with section 4(1) (a) and recognised as such under section 6;

**“Chief’s Council”** means a Chief’s Council established by section 9;

**“communal area”** means the geographic area habitually inhabited by a specific traditional community, excluding any local authority area as defined in section 1 of the Local Authorities Act, 1992 (Act 23 of 1992);

**“Community Trust Fund”** means a Community Trust Fund contemplated in section 18(3);

**“Council of Traditional Leaders”** means the Council of Traditional Leaders established by section 2 of the Council of Traditional Leaders Act, 1997 (Act 13 of 1997);

**“customary law”** means the customary law, norms, rules of procedure, traditions and usages of a traditional community in so far as they do not conflict with the Namibian Constitution or with any other written law applicable in Namibia;

**“designation”**, in relation to the institution of a chief or head of a traditional community, includes the election or hereditary succession to the office of a chief or head of a traditional community, and any other method of instituting a chief or head of a traditional community recognised under customary law;

**“head”**, in relation to a traditional community, means the supreme traditional leader of that traditional community designated in accordance with section 4(1) (a) or (b) , as the case may be, and recognised as such under section 6;

**“investigation committee”** means the investigation committee appointed in terms of section 12(2);

**“member”**, in relation to –

- (a) a traditional community, means a person either or both of whose parents belong to that traditional community, and includes any other person who by marriage to or adoption by a member of that traditional community or by any other circumstance has assimilated the culture and traditions of that traditional community and has been accepted by the traditional community as a member thereof;
- (b) a traditional authority, means a chief, a head of a traditional community, a senior traditional councillor, or a traditional councillor;

**“Minister”** means the Minister responsible for Regional and Local Government;

**“prescribed”** means prescribed by regulation made under section 19;

**“repealed Act”** means the Traditional Authorities Act, 1995 (Act 17 of 1995);

**“senior traditional councillor”** means a senior councillor of a traditional community appointed or elected in accordance with section 10;



**“this Act”** includes any regulation prescribed thereunder;

**“traditional authority”** means a traditional authority of a traditional community established in terms of section 2(1);

**“traditional community”** means an indigenous homogeneous, endogamous social grouping of persons comprising of families deriving from exogamous clans which share a common ancestry, language, cultural heritage, customs and traditions, who recognises a common traditional authority and inhabits a common communal area, and may include the members of that traditional community residing outside the common communal area;

**“Traditional Council”** means a Traditional Council established by section 9;

**“traditional councillor”** means a councillor of a traditional community appointed or elected in accordance with section 10; and

**“traditional leader”** means a chief, a head of a traditional community, a senior traditional councillor, or a traditional councillor designated and recognized or appointed or elected, as the case may be, in accordance with this Act, and by whatever traditional title named.

## **2 Establishment of traditional authorities**

- (1) Subject to this Act, every traditional community may establish for such community a traditional authority consisting of –
  - (a) the chief or head of that traditional community, designated and recognized in accordance with this Act; and
  - (b) senior traditional councillors and traditional councillors appointed or elected in accordance with this Act.
- (2) A traditional authority shall in the exercise of its powers and the execution of its duties and functions have jurisdiction over the members of the traditional community in respect of which it has been established.

## **3 Powers, duties and functions of traditional authorities and members thereof**

- (1) Subject to section 16, the functions of a traditional authority, in relation to the traditional community which it leads, shall be to promote peace and welfare amongst the members of that community, supervise and ensure the observance of the customary law of that community by its members, and in particular to –
  - (a) ascertain the customary law applicable in that traditional community after consultation with the members of that community, and assist in its codification;
  - (b) administer and execute the customary law of that traditional community;
  - (c) uphold, promote, protect and preserve the culture, language, tradition and traditional values of that traditional community;

- (d) preserve and maintain the cultural sites, works of art and literary works of that traditional community;
  - (e) perform traditional ceremonies and functions held within that traditional community;
  - (f) advise the Council of Traditional Leaders in the performance of its functions as provided under Article 102(5) of the Namibian Constitution, the Council of Traditional Leaders Act, 1997 (Act 13 of 1997), or under any other law;
  - (g) promote affirmative action amongst the members of that traditional community as contemplated in Article 23 of the Namibian Constitution, in particular by promoting gender equality with regard to positions of leadership; and
  - (h) perform any other function as may be conferred upon it by law or custom.
- (2) A member of a traditional authority shall in addition to the functions referred to in subsection (1) have the following duties, namely –
  - (a) to assist the Namibian police and other law enforcement agencies in the prevention and investigation of crime and, subject to the provisions of the Criminal Procedure Act, 1977 (Act 51 of 1977), the apprehension of offenders within their jurisdiction;
  - (b) to assist and co-operate with the Government, regional councils and local authority councils in the execution of their policies and keep the members of the traditional community informed of developmental projects in their area;
  - (c) to ensure that the members of his or her traditional community use the natural resources at their disposal on a sustainable basis and in a manner that conserves the environment and maintains the ecosystems for the benefit of all persons in Namibia;
  - (d) to be ordinarily resident in the communal area of the traditional community which he or she leads, failing which such traditional leader may be removed from office, if he or she is a chief or a head of a traditional community, under section 8(1) or, if he or she is a senior traditional councillor or traditional councillor, in accordance with the applicable customary law, but a person who is not so resident at his or her designation and recognition or appointment or election as a traditional leader in terms of this Act shall not be disqualified to be so designated and recognized or appointed or elected; and
  - (e) to respect the culture, customs and language of any person who resides within the communal area of that traditional authority, but who is not a member of the traditional community which such member leads.
- (3) In the performance of its duties and functions under this Act, a traditional authority may –
  - (a) in addition to any contributions contemplated in section 18(3), raise funds on behalf of its traditional community, which funds shall be paid into the Community Trust Fund of that community;

- (b) hear and settle disputes between the members of the traditional community in accordance with the customary law of that community;
  - (c) make customary laws; and
  - (d) use on all its correspondence an office stamp of its own design.
- (4) Where a traditional authority referred to in section 2(1) has been established for a traditional community, and a group of members of that traditional community establishes in conflict with the provisions of this Act another authority purporting to be a traditional authority for such group, and any member of such last-mentioned authority exercises or performs any of the functions contemplated in paragraphs (b) and (h) of subsection (1) and paragraphs (a) and (b) of subsection (3) of this section –
- (a) any such act shall be null and void; and
  - (b) such member shall be guilty of an offence, and upon conviction be liable to a fine of N\$4 000 or to imprisonment for a period of twelve months or to both such fine and imprisonment.

#### **4 Designation of chief or head of traditional community**

- (1) Subject to sections 5 and 6, members of a traditional community who are authorised thereto by the customary law of that community, may designate in accordance with that law –
- (a) one person from the royal family of that traditional community, who shall be instituted as the chief or head, as the case may be, of that traditional community; or
  - (b) if such community has no royal family, any member of that traditional community, who shall be instituted as head of that traditional community.
- (2) The qualifications for designation and the tenure of, removal from and succession to the office of chief or head of a traditional community shall be regulated by the customary law of the traditional community in respect of which such chief or head of a traditional community is designated.

#### **5 Prior notification of designation of chief or head of traditional community**

- (1) If a traditional community intends to designate a chief or head of a traditional community in terms of this Act –
- (a) the Chief's Council or the Traditional Council of that community, as the case may be; or
  - (b) if no Chief's Council or Traditional Council for that community exists, the members of that community who are authorised thereto by the customary law of that community,
- shall apply on the prescribed form to the Minister for approval to make such designation, and the application shall state the following particulars:

- (i) The name of the traditional community in question;
  - (ii) the communal area inhabited by that community;
  - (iii) the estimated number of members comprising such community;
  - (iv) the reasons for the proposed designation;
  - (v) the name, office and traditional title, if any, of the candidate to be designated as chief or head of the traditional community;
  - (vi) the customary law applicable in that community in respect of such designation; and
  - (vii) such other information as may be prescribed or the Minister may require.
- (2) On receipt of an application complying with subsection (1), the Minister shall, subject to subsection (3), in writing approve the proposed designation set out in such application.
- (3) Notwithstanding subsection (2), if in respect of an application referred to in subsection (1) the Minister is of the opinion that –
  - (a)
    - (i) the person sought to be designated as a chief or head of a traditional community represents a group of persons who are members of a traditional community in respect of which a chief or head of a traditional community has been designated and recognised under this Act; or
    - (ii) such group of persons do not constitute an independent traditional community inhabiting a common communal area detached from another traditional community; or
    - (iii) such group of persons do not comprise a sufficient number of members to warrant a traditional authority to be established in respect thereof; and
  - (b) that there are no reasonable grounds for recognizing such group of persons as a separate traditional community, the Minister shall advise the President accordingly.
- (4) The President shall on receipt of the Minister's advice under subsection (3) refer the matter to the Council of Traditional Leaders for its consideration and recommendation.
- (5) The Council of Traditional Leaders shall submit to the President any recommendation it may wish to make in respect of any matter referred to it in terms of subsection (4) not later than 12 months after the date of referral of that matter to it.
- (6) On –
  - (a) receipt of a recommendation referred to in subsection (5); or
  - (b) failure of the Council of Traditional Leaders to make such recommendation within the time frame prescribed by that subsection,

the President shall in his or her discretion and in writing, either reject the proposed designation on any of the grounds mentioned in subsection (3) (a) or (b) , or grant approval for such designation to the members of the traditional community in question.

- (7) On receipt of any written approval granted under subsection (2) or (6), the Chief's Council or Traditional Council or, in a situation contemplated in subsection (1) (b) , the members of the traditional community, as the case may be, shall in writing give the Minister prior notification of the date, time and place of the designation in question, whereupon the Minister or his or her representative shall attend that designation, and shall –
  - (a) witness the designation of the chief or head of the traditional community in question; and
  - (b) satisfy himself or herself that such designation is in accordance with the customary law referred to in paragraph (vi) of subsection (1).
- (8) The chief or head of the traditional community shall at his or her designation under subsection (7), make or subscribe to such oath or solemn affirmation with regard to his or her office as chief or head as the relevant customary law may require.
- (9) If –
  - (a) the provisions of subsection (1) or (7) have not been complied with; or
  - (b) the designation of a chief or head of a traditional community has not been conducted in accordance with the customary law referred to in paragraph (vi) of subsection (1),the designation of the chief or head of the traditional community concerned shall be invalid.
- (10) If, in respect of a traditional community –
  - (a) no customary law regarding the designation of a chief or head of a traditional community exists; or
  - (b) there is uncertainty or disagreement amongst the members of that community regarding the applicable customary law,the members of that community may elect, subject to the approval of the Minister, a chief or head of the traditional community by a majority vote in a general meeting of the members of that community who have attained the age of 18 years and who are present at that meeting.

## **6 Recognition of chief or head of traditional community**

- (1) If the Minister is satisfied that a chief or head of a traditional community has been designated in accordance with the requirements of this Act, he or she shall notify the President of such designation in writing, specifying the name, office, traditional title, if any, date of designation of such chief or head, and the name

of the traditional community in respect of which such chief or head has been designated.

- (2) The President shall on receipt of a notice referred to in subsection (1) recognise the designation of the chief or head of the traditional community concerned by proclamation in the *Gazette*, setting out in such notice the particulars referred to in subsection (1) with regard to such chief or head.
- (3) Notwithstanding any other provision to the contrary in this Act contained, a chief or head of a traditional community shall be deemed not to have been designated under this Act, unless such designation has been recognized under this section.
- (4) Any application in terms of section 5 of the repealed Act for the designation of a chief or a supreme traditional leader of a traditional community which does not have a chief, which has not been finalized prior to the repeal of that Act by this Act shall be dealt with and finalized in terms of the corresponding provisions of this Act.

## **7 Powers, duties and functions of chief or head of traditional community**

A chief or head of a traditional community –

- (a) shall be the custodian of the customary law of the traditional community which he or she leads;
- (b) shall exercise his or her powers and perform his or her duties and functions and in accordance with that customary law;
- (c) may, subject to sections 8(2) and 15(5), appoint any other member of his or her traditional community to act in his or her place, when he or she is for any reason unable to act as chief or head of that traditional community;
- (d) shall perform such other powers and exercise such other duties or functions as may be conferred upon him or her by statutory law or the applicable customary law;
- (e) shall assign one or two senior traditional councillors to assist him or her in the administering of the affairs of the Chief's Council or the Traditional Council, as the case may be.

## **8 Removal and succession of chief or head of traditional community**

- (1) If there is sufficient reason to warrant the removal of a chief or head of a traditional community from office, such chief or head may be removed from office by the members of his or her traditional community in accordance with the customary law of that community.
- (2) If, by reason of removal from office as contemplated in subsection (1) or death, a chief or head of a traditional community ceases to perform the functions of his or her office, the members of that traditional community, who are authorized thereto

by customary law, may designate in accordance with this Act a member of that traditional community to replace such chief or head.

- (3) If a chief or head of a traditional community has been removed from office as contemplated in subsection (1), the Minister shall notify the President of such removal in writing, specifying the name, office, traditional title, if any, date of removal of the chief or head concerned, and the name of the traditional community in respect of which such chief or head has been removed from office.
- (4) The President shall on receipt of a notice referred to in subsection (3) recognize the removal from office of the chief or head of the traditional community concerned by proclamation in the *Gazette*, setting out in such notice the particulars referred to in that subsection with regard to such chief or head of the traditional community.

## **9 Establishment of Chief's Council and Traditional Council, and powers, duties and functions thereof**

- (1) There is hereby established –
  - (a) for every traditional community which has a chief, a Chief's Council;
  - (b) for every traditional community which has a head of a traditional community, a Traditional Council.
- (2) A Chief's Council or Traditional Council shall comprise –
  - (a) such number of members of the traditional authority of the traditional community in question as the chief or head of that traditional community, as the case may be, may appoint to serve as members of the Council in question; and
  - (b) in addition to the members referred to in paragraph (a), such number of members of the traditional community in question as the chief or head of that traditional community, as the case may be, may co-opt to serve as members of the Council in question.
- (3) The chief or the head of a traditional community shall be the chairperson of the Chief's Council or Traditional Council which has been established for his or her traditional community, as the case may be, and such chairperson may appoint such other office-bearers of the Council in question as he or she may deem necessary.
- (4) The Chief's Council or Traditional Council shall be responsible for the day-to-day administration of the affairs of the traditional authority of the traditional community in respect of which it has been established.
- (5) The chairperson of the Chief's Council or Traditional Council, as the case may be, shall cause a written record to be kept of the proceedings of the meetings of that Chief's Council or Traditional Council, as the case may be.

**10 Appointment of senior traditional councillors, traditional councillors and secretary, and their powers, duties, and functions**

- (1) A chief or head of a traditional community shall appoint from amongst the members of his or her traditional community or cause to be elected by such members from amongst their number –
  - (a) senior traditional councillors, who shall assist such chief or head in the performance of his or her functions, and exercise or perform such other powers, duties or functions as may be delegated or assigned to any of them by such chief or head; and
  - (b) traditional councillors, who shall advise such chief or head and the senior traditional councillors of that community with regard to the performance of their functions, and exercise or perform such other powers, duties or functions as may be delegated or assigned to any of them by such chief or head.
- (2) The qualifications for appointment or election and the tenure of, and removal from, office of a senior traditional councillor or traditional councillor shall be regulated by the customary law of the traditional community in respect of which such councillor is appointed or elected.
- (3) A chief or head of a traditional community shall from time to time appoint from amongst the members of his or her traditional community one person as secretary, and such secretary shall perform such duties and functions as may be assigned to him or her by that chief or head.
- (4) Any chief or head of a traditional community who has in accordance with this section appointed a senior traditional councillor or traditional councillor or caused any such councillor to be elected shall notify the Minister of such appointment or election in writing, specifying the name, office, traditional title, if any, date of appointment or election of the senior traditional councillor or traditional councillor concerned, and the name of the traditional community in respect of which such senior traditional councillor or traditional councillor has been appointed or elected.
- (5) The Minister shall on receipt of a notice referred to in subsection (4) make the appointment or election of a senior traditional councillor or traditional councillor known by notice in the *Gazette*, setting out in such notice the particulars referred to in that subsection with regard to such senior traditional councillor or traditional councillor.

**11 Use of traditional titles**

Nothing in this Act contained shall be construed as precluding the members of a traditional community from addressing a traditional leader by the traditional title accorded to that



office, but such traditional title shall not derogate from, or add to, the status, powers, duties and functions associated with the office of a traditional leader as provided for in this Act.

## **12 Settlement of disputes**

- (1) If a dispute arises amongst the members of a traditional community as to whether or not a person to be designated as –
  - (a) chief or head of the traditional community in terms of section 4 is the rightful or a fit and proper person under the customary law of that community to be so designated; or
  - (b) successor in terms of section 8 is the rightful or a fit and proper successor to the office of chief or head of the traditional community under the customary law of that community,and the members of that traditional community fail to resolve that dispute in accordance with such customary law, they may submit to the Minister a written petition, signed by the parties to the dispute, stating the nature of the dispute.
- (2) On receipt of a petition referred to in subsection (1), the Minister may appoint an investigation committee consisting of such number of persons as he or she may determine, to investigate the dispute in question and to report to the Minister concerning its findings and recommendations.
- (3) The Minister shall on receipt of the report referred to in subsection (2) take such decision as he or she may deem expedient for the resolutions of the dispute in question.
- (4) In the investigation or resolution of a dispute under this section regard shall be had to the relevant customary law and traditional practices of the traditional community within which the dispute has arisen.

## **13 Powers of investigation committee**

- (1) An investigation committee, or any member thereof authorized by such committee for the purpose, may, in the investigation of a dispute contemplated in section 12(2) –
  - (a) in its or his or her discretion determine the nature and extent of the investigation in question;
  - (b) have access to all books, minutes of meetings, or other documents which the investigation committee or the member concerned deems necessary to investigate in connection with that investigation;
  - (c) request particulars and information from any person which the investigation committee or the member concerned deems necessary in connection with the investigation in question;
  - (d) without payment of any fees, make enquiries into and extracts from, or copies of, any such books, minutes or other documents which the

- investigation committee or the member concerned deems necessary in connection with that investigation;
- (e) by notice in writing request any person to appear before it or him or her in relation to that investigation at a date, time and place specified in such notice and to submit all such books, minutes or other documents or things in the possession or under the control of that person which the investigation committee or the member concerned deems necessary in connection with that investigation.
- (2) Any person appearing under subsection (1), before an investigation committee or any member thereof, may be requested –
- (a) to co-operate with the investigation committee or the member concerned and to disclose truthfully and frankly any information within his or her knowledge relevant to the investigation in question;
  - (b) to produce any book, minutes, other documents or thing to the investigation committee or the member concerned which the investigation committee or that member deems necessary in connection with that investigation.
- (3) The provisions of subsection (1) and (2), in so far as they provide for a limitation on the fundamental right to privacy contemplated in Article 13 of the Namibian Constitution by authorizing interference with such privacy, are enacted upon the authority conferred by the said Article.

#### **14 Limitation of powers of traditional authorities**

In the exercise of the powers or the performance of the duties and functions referred to in section 3 by a traditional authority or a member thereof –

- (a) any custom, tradition, practice, or usage which is discriminatory or which detracts from or violates the rights of any person as guaranteed by the Namibian Constitution or any other statutory law, or which prejudices the national interest, shall cease to apply;
- (b) the customary law of a traditional community shall only apply to the members of that traditional community and to any person who is not a member of that traditional community, but who by his or her conduct or consent submits himself or herself to the customary law of that traditional community; and
- (c) a traditional leader shall not permit his or her political opinions or allegiance to influence –
  - (i) the functions of his or her office as traditional leader; or
  - (ii) the members of the traditional community in respect of which he or she was designated and recognized, or appointed or elected, as the case may be.

#### **15 Holding of political office by chief or head of traditional community**

- (1) Every chief or head of a traditional community elected or appointed to a political office shall –

- (a) upon such election or acceptance of such appointment be considered to have taken leave of absence from the office of chief or head of a traditional community for the duration that he or she holds such political office; and
  - (b) forthwith notify the Minister in writing of the date with effect from which he or she holds such political office.
- (2) The Minister shall cause notice to be given in the *Gazette* of the election or appointment of any chief or head of a traditional community to a political office and of the date from which such election or appointment is of force.
- (3) Any person holding a political office who becomes a chief or head of a traditional community shall with effect from the date that he or she is recognised as such under section 6, be considered to have taken leave of absence from the office of chief or head of the traditional community for the duration of the period that he or she holds such political office.
- (4) A chief or head of a traditional community who by virtue of subsection (1) (a) or (3) is considered to have taken leave of absence from the office of chief or head of a traditional community shall, during that period of leave of absence, not be entitled to be accorded the status of chief or head of a traditional community and to receive the allowance payable to a chief or head of a traditional community under this Act.
- (5) Where a chief or head of a traditional community is considered to have taken leave of absence under subsection (1) (a) or (3), the members of that traditional community who are authorized thereto by customary law may designate, in accordance with section 4 and subject to sections 5 and 6, a member of that traditional community to act as chief or head of the traditional community for the duration of that period of leave of absence.
- (6) A person duly designated and recognized to act as chief or head of a traditional community as contemplated in this section shall during the period that he or she acts as chief or head of the traditional community exercise the powers and perform the duties and functions of chief or head of that traditional community and receive allowances payable to a chief or head of a traditional community under this Act.
- (7) For purposes of this section “political office” means the President of the Republic of Namibia, a member of the National Assembly, National Council or a Regional Council, and includes a leader of a political party registered under section 39 of the Electoral Act, 1992 (Act 24 of 1992).
- (8) To the extent that this section authorises a limitation upon the right of a chief or head of a traditional community to hold a political office or the holder of a political office to hold the office of chief or head of a traditional community, such

limitation is authorised on grounds of public interest as contemplated in Article 17(3) of the Namibian Constitution.

- (9) Nothing in this section contained shall be construed as derogating from section 8.

## **16 Relationship of traditional authorities with government organs**

A traditional authority shall in the exercise of its powers and the performance of its duties and functions under customary law or as specified in this Act give support to the policies of the Government, regional councils and local authority councils and refrain from any act which undermines the authority of those institutions.

## **17 Payment of allowances to traditional leaders**

- (1) Subject to subsection (2), there shall be paid from moneys appropriated by Parliament for such purpose allowances –
- (a) to the following traditional leaders of a traditional community, namely:
    - (i) One chief or head of a traditional community, as the case may be;
    - (ii) not more than six senior traditional councillors; and
    - (iii) not more than six traditional councillors, designated and recognised, or appointed or elected, as the case may be, in accordance with this Act, notwithstanding the fact that more than six senior traditional councillors and more than six traditional councillors may have been appointed or elected in respect of a particular traditional community under this Act; and
  - (b) to the secretary of a traditional community appointed under section 10(3).
- (2) (a) The Minister, in consultation with the Minister responsible for Finance, may prescribe allowances payable in respect of the traditional leaders, and the secretary, referred to in subsection (1).
- (b) Different allowances may be prescribed under paragraph (a), regard being had to the status, duties and responsibilities of each office referred to in that paragraph.
- (3) Every traditional community in respect of whom more than six persons have been appointed or elected as senior traditional councillors and more than six persons have been appointed or elected as traditional councillors, shall notify the Minister in writing of the names of those senior traditional councillors and traditional councillors who shall be entitled to receive allowances under this Act.
- (4) Subsections (1) and (3) shall not be construed as preventing a traditional community from paying allowances to senior traditional councillors and traditional councillors who are not under those subsections entitled to allowances.

## **18 Assets and Trust Fund of traditional community**

- (1) A traditional authority may with the consent of the members of its traditional community acquire, purchase, lease, sell, or otherwise hold or dispose of movable and immovable property in trust for that traditional community, and shall have such rights in respect of the acquisition and disposal of such property as may reasonably be necessary or expedient for the carrying out of its functions under this Act.
- (2) Any immovable property acquired as contemplated in subsection (1) shall be registered in the name of the traditional authority concerned in accordance with the provisions of the Deeds Registries Act, 1937 (Act 47 of 1937) or the Registration of Deeds in Rehoboth Act, 1976 (Act 93 of 1976).
- (3) A traditional authority may with the consent of the members of its traditional community establish a Community Trust Fund, to be held in trust for the members of that traditional community, and towards which such members may contribute for the purposes of –
  - (a) financing projects in that community which promote and uplift the culture, preserve cultural sites, works of art and literary works of that community;
  - (b) meeting the administrative costs of running the office of the traditional authority;
  - (c) meeting the costs of performing any of the functions and duties of a traditional authority under this Act; and
  - (d) meeting any other costs that the traditional community may agree upon.
- (4) A traditional authority shall with the consent of the members of its traditional community determine the manner in which and the persons by whom the contribution contemplated in subsection (3) shall be made, as well as the amount of that contribution.

## **19 Regulations**

The Minister may make regulations relating to –

- (a) the establishment and composition of a Board of Trustees to manage and control a Community Trust Fund;
- (b) the duties, functions, and powers of a Board of Trustees;
- (c) the tenure and vacation of office of members of a Board of Trustees;
- (d) the meetings of a Board of Trustees and the election of office-bearers of such a Board;
- (e) the establishment of committees for a Community Trust Fund by a Board of Trustees, and the composition of a committee;
- (f) the duties, functions and powers of a committee referred to in paragraph (e);
- (g) the keeping of accounting records of a Community Trust Fund and the auditing of that records;

- (h) the financial year of a Community Trust Fund;
- (i) the method by which the number of persons comprising a traditional community may be determined; and
- (j) generally all other matters which are by this Act required or permitted to be prescribed, or which are necessary or expedient to be prescribed in order to achieve the purposes of this Act.

## **20 Repeal of laws and savings**

- (1) Subject to subsection (2), the Traditional Authorities Act, 1995 (Act 17 of 1995), and the Traditional Authorities Amendment Act, 1997 (Act 8 of 1997), are hereby repealed.
- (2) A traditional authority which was established under any law repealed by subsection (1) and which existed immediately before the commencement of this Act shall from such commencement continue to function as such and the provisions of this Act shall apply to such traditional authority as if it were a traditional authority established under this Act, and any person who immediately before such commencement was a member or office-bearer of such traditional authority by virtue of his or her designation and recognition or appointment under any such repealed law –
  - (a) as a chief or supreme traditional leader shall from such commencement be a chief or, in the case of the supreme traditional leader, be a head of a traditional community as if he or she were designated and recognized under this Act; and
  - (b) as a senior traditional councillor, traditional councillor or secretary shall from such commencement respectively be a senior traditional councillor, traditional councillor or secretary as if he or she were appointed or elected under this Act.
- (3) Anything done under a provision of a law repealed by subsection (1) shall, in so far as it is not inconsistent with any provision of this Act, be deemed to have been done under the corresponding or related provision, if any, of this Act.

## **21 Construction of a certain expression**

Any reference to the chief of a traditional community in any other law shall be construed as to include a reference to the head of a traditional community.

## **22 Short title and commencement**

- (1) This Act shall be called the Traditional Authorities Act, 2001, and shall come into operation on a date to be determined by the Minister by notice in the *Gazette*.
- (2) Different dates may be determined under subsection (1) in respect of different provisions of this Act.

**ANNEXURE 1C**  
**COMMUNITY COURTS ACT 10 OF 2003**  
[ASSENTED TO 31 JULY 2003]  
[DATE OF COMMENCEMENT: 17 NOVEMBER 2003]  
*(Signed by the President)*

**ACT**

**To provide for the recognition and establishment of community courts; to provide for the appointment of Justices and for clerks and messengers of court; to provide for the application of customary law by community courts; to provide for the jurisdiction of and procedure to be adopted by community courts; to provide for appeals from community courts to other courts; and to provide for connected and incidental matters.**

**ARRANGEMENT OF SECTIONS**

1. Definitions
2. Application for recognition of courts
3. Application for establishment of community courts
4. Establishment of community courts
5. Financial assistance
6. Revenue account of community court
7. Composition of community courts
8. Appointment of Justices
9. Appointment of clerks and messengers of court
10. Allowances of Justices and remuneration of clerks and messengers of court
11. Oath of office
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27. Hearing of appeals by magistrates' courts
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1. Contempt of community court and other related offences
2. Other offences
3. Regulations
4. Repeal of laws, and savings
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Schedule – Laws repealed

## **1 Definitions**

In this Act, unless the context indicates otherwise –

**“area”**, in relation to a traditional community, means the geographic area habitually and predominantly inhabited by that traditional community;

**“area of jurisdiction”**, in relation to a court recognized or established under this Act, means the area for which that court has been so recognized or established;

**“assessor”** means an assessor who has been appointed as such under this Act;

**“community court”** means a community court recognized under section 2 or established under section 4;

**“customary law”** means the customary law, norms, rules of procedure, traditions and usages of a traditional community in so far as they do not conflict with the provisions of the Namibian Constitution or any other statutory law applicable in Namibia;

**“financial institution”** means a financial institution authorised to conduct banking business under the Banking Institutions Act, 1998 (Act 2 of 1998), or a building society finally registered as such under the Building Societies Act, 1986 (Act 2 of 1986);

**“Justice”** means a Justice appointed in terms of section 8;

**“magistrate”** means the magistrate of a district and includes an additional magistrate of that district;

**“magistrate’s court”** means the magistrate’s court of a district in which the community court concerned is situated;

**“Minister”** means the Minister responsible for Justice;

**“prescribe”** means prescribe by regulation under this Act;



**“this Act”** includes any regulation made under section 32;

**“traditional authority”** means the traditional authority referred to in section 2 of the Traditional Authorities Act, 2000 (Act 25 of 2000);

**“traditional community”** means an indigenous, homogenous, endogamous social grouping of persons comprising of families deriving from exogamous clans which share a common ancestry, language, cultural heritage, customs and traditions, recognises a common traditional authority and inhabits a common communal area; and includes the members of that community residing outside the common communal area;

**“traditional leader”** means a traditional leader as defined in section 1 of the Traditional Authorities Act, 2000 (Act 25 of 2000).

## **2 Application for recognition of courts**

- (1) Where immediately before the commencement of this Act –
  - (a) any person or body had pursuant to any law repealed by section 33 jurisdiction to hear and determine any civil or criminal matter in the area of a traditional community or in any part of such area;
  - (b) any person or body (hereinafter in this Act referred to as a body of appeal) had pursuant to any law repealed by section 33 jurisdiction to hear and determine any appeal against an order or decision made or given by a person or body referred to in paragraph (a) ,

and one or more traditional authorities have been established and recognized in accordance with the Traditional Authorities Act, 2000 (Act 25 of 2000) for that traditional community, such authority or authorities may apply in writing to the Minister for recognition in respect of the area of the traditional community of a court (hereinafter referred to as a community court).
- (2) An application referred to in subsection (1) shall be made within such period as may be determined by the Minister by notice in the *Gazette* and shall contain the following particulars:
  - (a) The name of the traditional community in respect of which a court is to be recognized;
  - (b) the area of such traditional community in respect of which jurisdiction is to be exercised by such court;
  - (c) whether a body of appeal contemplated in subsection (1) (b) existed in such area before the commencement of this Act;
  - (d) the names of the persons who in terms of this Act are qualified to be appointed as Justices or assessors;
  - (e) such further information as the Minister may require.

- (3) If on receipt of an application referred to in subsection (1) the Minister is satisfied that the requirements referred to in that subsection have been met and that the application contains all the particulars required by subsection (2), the Minister shall in respect of the area to which the application relates recognize by notice in the *Gazette* a community court for that area.
- (4) A notice under subsection (3) shall state the traditional community in respect of which the community court is recognized; whether the court so recognized comprises a body of appeal; and the area in respect of which such court shall exercise jurisdiction.
- (5) A community court recognized under subsection (3) shall upon recognition have the jurisdiction contemplated in section 12: Provided that where it is evident from a notice issued under subsection (4) that the court so recognized comprises a body of appeal, such court shall in addition have jurisdiction to hear and determine any appeal relating to a matter referred to in paragraph (a) of that section.
- (6) The provisions of this Act shall, except to the extent otherwise provided, apply to a community court recognized under subsection (3) as if it were a community court established under section 4.

### **3 Application for establishment of community courts**

- (1) A traditional authority of a traditional community may apply in writing to the Minister for the establishment of a community court in respect of the area of that traditional community, but only if no court has been recognized or established under this Act for that area.
- (2) An application referred to in subsection (1) shall contain the following particulars:
  - (a) The area to which the application relates;
  - (b) the reasons for applying for the establishment of a court;
  - (c) the names of the persons who in terms of this Act are qualified to be appointed as Justices or assessors for that area;
  - (d) such further information as the Minister may require.

### **4 Establishment of community courts**

- (1) If on receipt of an application referred to in section 3 the Minister is satisfied that such application contains the required particulars and that no court has been recognized or established under this Act in respect of the area to which the application relates he or she shall by notice in the *Gazette* establish a community court for the area mentioned in the notice, and such community court shall within that area exercise the jurisdiction conferred on it by or under this Act.

- (2) A community court may, by the notice mentioned in subsection (1), be allowed to carry such name as may be appropriate for the area in question.
- (3) The Minister may, by notice in the *Gazette* , amend or revoke any notice referred to in this section.

## **5 Financial assistance**

The Minister with the concurrence of the Minister of Finance shall, subject to such conditions as the Minister acting with such concurrence may determine or prescribe, at any time grant to a community court out of moneys appropriated by Parliament such financial assistance as may be necessary for defraying expenses in connection with the administration of such community court.

## **6 Revenue account of community court**

- (1) A traditional authority shall on behalf of the community court in its area open and operate a revenue account with any financial institution into which shall be paid all moneys accruing to such court in terms of this Act.
- (2) The moneys in the revenue account of a community court shall be utilized to defray all expenses incurred in connection with the administration of such court, but moneys received by virtue of any grant under section 5 shall be utilized in accordance with the conditions determined or prescribed under that section.
- (3) Notwithstanding the State Finance Act, 1991 (Act 31 of 1991), any fines and fees received by a community court in terms of this Act shall be paid into the revenue account of such community court.
- (4) A traditional authority may realize any payment in kind received by a community court and shall, if such payment is so realized and is due to the community court, pay the money so obtained into the court's revenue account.
- (5) The secretary of the traditional authority concerned shall, subject to the directions and control of such traditional authority, and in accordance with generally accepted accounting principles, keep such accounting and related records as are necessary to fairly represent the financial affairs of the community court.
- (6) The accounting and related records referred to in subsection (4) shall be examined and audited annually by the Auditor-General.

## **7 Composition of community courts**

- (1) A community court shall be presided over by one or more Justices appointed by the Minister in accordance with the provisions of section 8 for such community court.

- (2) A community court may appoint one or more assessors, each of whom shall be selected from amongst persons mentioned in the list approved in terms of subsection (3), to advise the community court on any matter to be adjudicated upon by the community court in the proceedings in question.
- (3) For the purposes of the appointment of assessors, the Minister shall by notice in the *Gazette*, out of a list of names referred to in section 3(2) (c), approve not less than five and not more than ten assessors-designate.
- (4) The grounds for disqualification and removal referred to in section 8(2) and (3), respectively, shall apply with the necessary changes to assessors.
- (5) An assessor appointed in terms of subsection (2) shall be paid from moneys appropriated by Parliament such allowances as the Minister, with the concurrence of the Minister of Finance, may prescribe.
- (6) A community court shall give due consideration to, but shall not be bound by, the opinion of any assessor.
- (7) If during any proceedings before a community court, an assessor dies or he or she for any reason becomes incapable of taking his or her seat, the Justice or Justices presiding may either adjourn the proceedings in order to invoke the assistance of another person as assessor or proceed with the hearing with the remaining assessor.
- (8) No person shall sit as a Justice or an assessor in any proceedings before a community court if he or she has any interest direct or indirect or personal or pecuniary in any matter before such court.

## **8 Appointment of Justices**

- (1) Subject to subsection (2), the Minister shall for each community court in writing appoint as Justices the persons who in are in terms of section 3(2) (c) named for appointment as Justices, and shall cause any such appointment to be made known by notice in the *Gazette*.
- (2) No person shall be eligible for appointment as a Justice of a community court unless –
  - (a) he or she is conversant with the customary law of the area in question;
  - (b) by virtue of his or her integrity he or she is a fit and proper person to be entrusted with the responsibility of the office of Justice;
  - (c) he or she is not a member of –
    - (i) Parliament;
    - (ii) a regional council; or
    - (iii) a local authority council; or

- (d) he or she is not a leader of a political party, whether or not that political party is registered under section 39 of the Electoral Act, 1992 (Act 24 of 1992).
- (3) The Minister may, after consultation with the traditional authority concerned, by notice in the *Gazette* remove from office any Justice if he or she becomes subject to any disqualification contemplated in subsection (2), but only after the Minister afforded such Justice an opportunity to be heard.
- (4) If a community court is unable to sit by reason of the absence of a Justice, the traditional authority concerned may, subject to subsection (6), request the Minister to appoint as an acting Justice the person designated by it.
- (5) The Minister shall on receipt of a request referred to in subsection (4) in writing appoint the person designated by the traditional authority as an acting Justice to act during the absence of the Justice in whose place he or she has been so appointed.
- (6) The provisions of subsection (2) shall apply in relation to the appointment of an acting Justice.

## **9 Appointment of clerks and messengers of court**

A community court shall appoint a clerk of the court and a messenger of the court to exercise such functions as may be conferred or imposed upon such clerk or messenger by the community court or in terms of this Act.

## **10 Allowances of Justices and remuneration of clerks and messengers of court**

- (1) Subject to subsection (3), there shall be paid from moneys appropriated by Parliament such allowances to Justices and such remuneration to clerks and messengers of court appointed under this Act as may be prescribed under subsection (2).
- (2) The Minister, with the concurrence of the Minister of Finance, shall prescribe the allowances payable to Justices for attending court sittings and the remuneration payable to clerks and messengers of court for duties performed under this Act.
- (3) A Justice or a clerk or messenger of the court who receives remuneration as a traditional leader or a secretary under the Traditional Authorities Act, 2000 (Act 25 of 2000), shall not be entitled to allowances or remuneration under this Act.
- (4) Any person who acts as a Justice under section 8(5) shall be entitled to be paid the allowances that would have been payable to the Justice in whose place he or she acts.

## **11 Oath of office**

- (1) A Justice shall not perform any function as judicial officer of a community court unless he or she has taken an oath or made an affirmation, which shall be subscribed by him or her, in the form set out below, namely:

“I, ..... (full name), do hereby swear/solemnly and sincerely affirm and declare that I will in my capacity as a judicial officer of a community court administer justice to all persons alike, without fear, favour or prejudice, and as the circumstances in any particular case may require, in accordance with the laws and customs of the Republic of Namibia.”.

- (2) Any such oath or affirmation shall be taken or made in the official language or in any other language before the magistrate of a district in which the community court in question is situated, who shall at the foot thereof in writing make a statement to the effect that it was taken or made before him or her and of the date on which it was so taken or made and append his or her signature thereto.

## **12 Jurisdiction in respect of cases and persons**

A community court shall have jurisdiction to hear and determine any matter relating to a claim for compensation, restitution or any other claim recognized by the customary law, but only if –

- (a) the cause of action of such matter or any element thereof arose within the area of jurisdiction of that community court; or
- (b) the person or persons to whom the matter relates are in the opinion of that community court closely connected with the customary law.

## **13 Application of customary law**

In any proceedings before it a community court shall apply the customary law of the traditional community residing in its area of jurisdiction: Provided that if the parties are connected with different systems of customary law, the community court shall apply the system of customary law which the court considers just and fair to apply in the determination of the matter.

## **14 Ascertainment of customary law**

If a community court entertains any doubt as to the existence or content of a rule of customary law relevant to any proceedings, after having considered such submissions thereon as may be made and such evidence thereon as may be tendered by or on behalf of the parties concerned, it may, without derogation from any other lawful source to which it may have recourse, consult decided cases, text books and other sources, and may receive opinions, either orally or in writing to enable it to arrive at a decision in the matter: Provided that –

- (a) any cases, text books, sources and opinions consulted by the court shall be made available to the parties; or
- (b) any oral opinion shall be given to the court in the same manner as oral evidence.

### **15 Language to be used in community courts**

- (1) The official language or any other language including the sign language which a community court may decide upon may be used during any proceedings before that community court.
- (2) If the proceedings are conducted in a language with which any party to the proceedings before the community court –
  - (a) professes not to be conversant; or
  - (b) in the opinion of such community court, appears not to be sufficiently conversant,

a competent interpreter shall be called by the community court in order to translate such evidence into a language with which such party professes or appears to the community court to be sufficiently conversant.

### **16 Representation**

A party to any proceedings before a community court shall appear in person and may represent himself or herself or be represented by any person of his or her choice.

### **17 Service of process**

- (1) Every process of a community court shall be of force throughout the Republic of Namibia.
- (2) A messenger of the court appointed under section 9 shall serve any process of the community court for which he or she was appointed.
- (3) Notwithstanding subsection (2), a member of the Namibian Police Force shall be competent to serve any process in connection with a matter in a community court as if he or she were a duly appointed messenger of that community court.
- (4) For the purposes of this section “process” means any order, notice, summons or other writing issued under this Act by a community court.

### **18 Court records and attendance registers**

- (1) Every community court shall be a court of record.
- (2) The proceedings in a community court shall be recorded in writing by the clerk of the court.

- (3) Copies of the records of the court referred to in subsection (2), shall within such period and in such manner as may be prescribed be furnished to the magistrate's court and the Permanent Secretary: Justice.
- (4) Any person may –
  - (a) under the supervision of the clerk of a community court and at all reasonable times, peruse a copy of any of the records of the court compiled in accordance with subsection (2); and
  - (b) on payment of such fee as may be prescribed obtain a copy of such records.
- (5) For the purposes of determining the allowance payable under section 7 or 10 to an assessor or a Justice of a community court, as the case may be, the clerk of that court shall keep proper record of all sittings attended by any such assessor or Justice.

## **19 Proceedings in community courts**

- (1) Subject to this Act, the practice and procedure in accordance with which the proceedings of a community court shall be conducted, including procedures and rules relating to evidence, the manner of execution of any order or decision and the appropriation of fines shall be in accordance with the applicable customary law, but all proceedings shall be in accordance with the principles of fairness and natural justice.
- (2) No person shall give evidence or be examined as a witness in a community court unless he or she –
  - (a) takes an oath, which shall be administered by such court in the following form:

“I swear that the evidence that I shall give, shall be the truth, the whole truth and nothing but the truth, so help me God.”; or
  - (b) makes an affirmation, which shall be accepted by such court in the following form:

“I solemnly affirm that the evidence that I shall give, shall be the truth, the whole truth and nothing but the truth.”.

## **20 Summoning of persons**

- (1) A community court may issue a summons requiring any person to appear at the time and place mentioned therein to testify to a subject matter before the community court.
- (2) A community court may order the arrest of any person who, without reasonable excuse, fails to obey any summons issued under subsection (1) and served on him or her personally, or to remain in attendance throughout the proceedings.



- (3) Where an order is made by a community court under subsection (2), the person whose arrest has been ordered shall be arrested and brought before the community court concerned –
  - (a) by the messenger of the community court; or
  - (b) if the messenger of the community court is for any reason unable to arrest that person and the requirements of subsection (4) have been met, by a messenger of a magistrate's court or by a member of the Namibian Police Force to whom the order is transmitted.
- (4) If an order is to be executed as contemplated in subsection (3) by a messenger of a magistrate's court or by a member of the Namibian Police Force, that order shall be lodged with the magistrate's court for endorsement by a magistrate, and the magistrate shall, if he or she is satisfied that such order was lawfully issued, endorse it for execution.
- (5) The community court may impose a fine not exceeding N\$100 or payment of an equivalent amount in kind as determined by that community court after hearing the person who has been brought before it in terms of subsection (3).

## **21 Transfer of cases**

- (1) In any proceedings before a community court, the community court may –
  - (a) if it is of the opinion that such community court does not have jurisdiction to hear the matter; or
  - (b) for any other good cause,at any stage before an order is made, either of its own accord or on application by any interested party, refer the matter to the magistrate's court for directions as to the transfer of that matter to any other court.
- (2) The magistrate's court to whom a matter has been referred in terms of subsection (1) may –
  - (a) annul the proceedings and transfer the case to be heard *de novo* by any other community court or by a magistrate's court of competent jurisdiction; or
  - (b) direct that the proceedings be continued in the community court which referred the matter to it.

## **22 Orders of community courts**

- (1) Subject to this Act, a community court may in proceedings before it make any or all of the following orders –
  - (a) an order for compensation, damages, restitution or specific performance according to customary law;
  - (b) any order as to costs, fees or other charges, payable in money or an equivalent amount in kind.

- (2) Any order made under subsection (1) –
  - (a) shall be fair and reasonable and not be in conflict with the Namibian Constitution or any other statutory law;
  - (b) may provide that the amount payable thereunder (whether in money or in kind) be paid over a period not exceeding one year in such instalments and intervals as may be determined by the community court concerned.

## **23 Enforcement of orders of community courts**

- (1) If an order of a community court is not satisfied within the period specified by that community court, the person in whose favour it was given may register the order at the magistrate's court by lodging with the clerk of such magistrate's court a copy of the order of the community court duly certified as such by the clerk of the community court.
- (2) The clerk of the magistrate's court shall, at the request of a person who has registered an order of a community court as contemplated in subsection (1), issue to such person a writ of execution in respect of the order and such writ shall be executed by a messenger of the magistrate's court in all respects as if the order were that of the magistrate's court.

## **24 Limitation of liability for compensation**

- (1) Where compensation was awarded by a court other than a community court to an injured person under any law for any damage or loss suffered by such person and the compensation was accepted by him or her, the person against whom such award was made shall not be liable at the suit of the first-mentioned person to any proceedings in a community court in respect of the injury for which the award was made.
- (2) Where compensation was in accordance with the customary law awarded by a community court under this Act to an injured person for any damage or loss suffered by him or her, the person against whom the award was made shall not be liable at the suit of the first-mentioned person in any other court (including a community court) for the payment of compensation in respect of the injury for which the award was made.

## **25 Matters being dealt with in other courts**

If during proceedings before a community court it comes to the attention of such court that there is already an action pending in another court (including a community court) between the same parties based on the same cause of action, and in respect of the same subject matter, such court shall stay those proceedings until –

- (a) the proceedings in such other court, including proceedings on appeal, have been disposed of; or

- (b) the proceedings in such other court have been withdrawn.

## **26 Appeals against orders or decisions of community courts**

- (1) A party to any proceedings in a community court who is aggrieved by any order or decision of that community court may appeal to the magistrate's court: Provided that where the appeal is lodged against an order or decision of a community court recognized under section 2, and such court is vested with the jurisdiction contemplated in the proviso to subsection (5) of that section, an aggrieved party shall first exhaust his or her rights of appeal existing within such community court: Provided further that if such party is dissatisfied with the decision of such last-mentioned court he or she may appeal against such decision to the magistrate's court.
- (2) An appeal under subsection (1) to a magistrate's court shall be lodged with the clerk of that magistrate's court within 30 days from the date of the order or decision appealed against or within such extended period as the magistrate's court hearing the appeal may allow, but where such party is in terms of the first proviso to that subsection required to exhaust his or her rights of appeal as contemplated in that proviso, such appeal shall be lodged and further dealt with in accordance with the applicable customary law or be lodged within such period and in such manner as may be prescribed.
- (3) The execution of any order or decision of a community court shall be suspended until the appeal (if any) relating to such order or decision has been decided or withdrawn or in the opinion of the magistrate of the magistrate's court been abandoned.
- (4) In hearing an appeal under subsection (1) a community court may confirm, set aside, amend or vary any order or decision or give or make any order which, in accordance with the applicable customary law, the circumstances may require.

## **27 Hearing of appeals by magistrates' courts**

- (1) Notwithstanding the provisions of the Magistrates' Courts Act, 1944 (Act 32 of 1944), a magistrate's court shall have jurisdiction to hear and determine any appeal against any order or decision of a community court, and for the purposes of such appeal the magistrate presiding –
- (a) shall appoint two assessors, each of whom shall be selected from amongst persons mentioned in the list approved in terms of section 7(3), to advise him or her with regard to the appeal;
- (b) may, where the records submitted to him or her do not furnish sufficient evidence or information for the determination of the appeal, hear such further evidence as he or she thinks necessary.

- (2) If during any such proceedings before the magistrate's court an assessor dies or he or she for any other reason becomes incapable of taking his or her seat, the presiding magistrate may either adjourn the proceedings in order to invoke the assistance of another person as assessor or proceed with the hearing with the remaining assessor.
- (4) No person shall sit as an assessor during the hearing of an appeal in a case in which he or she has a personal or pecuniary interest or which was dealt with at any stage by a court of which he or she was then a member or an assessor.
- (5) An assessor appointed under subsection (1) shall be entitled to be paid from moneys appropriated by Parliament such allowances as the Minister, with the concurrence of the Minister of Finance, may prescribe.
- (6) The magistrate hearing the appeal shall give due consideration to, but shall not be bound by, the opinion of any assessor.

## **28 Decision of magistrate's court on appeal**

- (1) Subject to subsection (2), a magistrate may in determining an appeal against an order or decision of a community court (hereinafter in this section referred to as the court of first instance) –
  - (a) confirm such order or decision;
  - (b) amend or set aside such order or decision;
  - (c) remit the case to the court of first instance for further hearing with such instructions as to how any defect in the earlier proceedings might be overcome;
  - (d) give or make any order which, in accordance with the applicable customary law, the circumstances may require.
- (2) A magistrate shall not on appeal give or make any order that exceeds the jurisdiction of the court of first instance.

## **29 Further appeals**

- (1) An appeal against an order or decision made or given by a magistrate's court under section 28 shall lie to the High Court.
- (2) An appeal referred to in subsection (1) shall be noted and dealt with in the same manner as if it were an appeal in civil proceedings referred to in Chapter XI of the Magistrates' Courts Act, 1944 (Act 32 of 1944).

## **30 Contempt of community court and other related offences**

- (1) Any person who wilfully –

- (a) obstructs or in any way interferes with, or knowingly prevents, the service of any summons issued by a community court; or
- (b) dissuades, hinders or prevents or attempts to dissuade, hinder or prevent any person lawfully summoned to appear as a party or witness before a community court, from so appearing,

shall be guilty of an offence and upon conviction by the community court be liable to a fine not exceeding N\$1 000 or to the payment of an equivalent amount in kind as determined by that community court.

(2) Any person who wilfully –

- (a) insults any member of a community court during any sitting of the community court; or
- (b) interrupts the proceedings of a community court; or
- (c) otherwise wilfully disturbs the peace or order of such proceedings,

shall be guilty of an offence and may forthwith be removed and detained in custody, as if he or she were a prisoner awaiting trial, until the rising of the community court and shall in addition to such removal and detention be liable to a fine not exceeding N\$1 000 or the payment of an equivalent amount in kind as determined by that community court.

### **31 Other offences**

No person shall act as a member of a community court unless such person has been appointed as a Justice of a community court recognized or established under this Act, and where such person purports to act as a duly appointed Justice without having been so appointed –

- (a) any order or decision made or given by such person shall be null and void; and
- (b) such person shall be guilty of an offence and upon conviction be liable to a fine not exceeding N\$4 000 or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.

### **32 Regulations**

(1) The Minister may make regulations in relation to –

- (a) the instituting of proceedings in community courts;
- (b) the procedure to be observed in community courts;
- (c) the times and places of holding court sittings;
- (d) the manner in which records shall be kept of evidence and of proceedings in the court and the custody and disposal of such records, and the duties of the clerk of the court in respect thereof;
- (e) the manner of procuring the attendance of witnesses;
- (f) the appointment of interpreters and the allowances payable to them;
- (g) the service or execution of any process of a community court and the fees payable in respect thereof;
- (h) the hours during which the office of the clerk of a community court shall be open for the transaction of business;

- (i) the translation of court records by a sworn translator;
  - (j) any matter required or permitted to be prescribed by regulation under this Act or which the Minister may consider necessary or expedient to prescribe in order to ensure the proper dispatch and conduct of the proceedings of a community court.
- (2) Different regulations may be made under subsection (1) in respect of different community courts and any regulation made under that subsection may in respect of any contravention thereof or a failure to comply therewith prescribe a penalty not exceeding a fine of N\$2 000 or imprisonment for a period not exceeding six months.
- (3) No regulation made under subsection (1) shall be of any force unless published in the *Gazette* .

### **33 Repeal of laws, and savings**

- (1) Subject to subsections (3) and (4), the laws specified in the Schedule are hereby repealed to the extent indicated in the third column of that Schedule.
- (2) Anything done under a law repealed by subsection (1) and which could have been done under a corresponding provision of this Act shall be deemed to have been done under that corresponding provision.
- (3) Where immediately before the commencement of this Act any person or body had jurisdiction as contemplated in section 2(1) (a) or (b) , such person or body shall from such commencement continue to have such jurisdiction as if this Act had not been passed, but only until a date determined by the Minister by notice in the *Gazette* or, if a community court is under this Act recognized in the area in which such person or body had exercised jurisdiction, until the recognition of such court.
- (4) Any case pending before any person or body referred to in subsection (3) immediately before the date determined by the Minister under that subsection, shall from such date stand removed to the court which in terms of this Act has jurisdiction to hear and determine the same: Provided that any case partly heard at that date may be further heard and determined as if such person or body had not, by virtue of a notice issued under that subsection, ceased to have such jurisdiction.

### **34 Short title and commencement**

This Act shall be called the Community Courts Act, 2003, and shall come into operation on a date to be determined by the Minister by notice in the *Gazette*.

**Schedule**  
**LAWS REPEALED**  
 (Section 33)

| <b>No. and year of law</b> | <b>Title of law</b>                                                                                                                                                                                                                                                         | <b>Extent of repeal</b> |
|----------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|
| Proclamation 28 of 1923    | Rehoboth Community: Confirmation of Agreement Proclamation, 1923                                                                                                                                                                                                            | The whole               |
| Proclamation R348 of 1967  | Civil and Criminal Jurisdiction: Chiefs, Headmen, Chiefs' Deputies and Headmen's Deputies, Territory of South West Africa Proclamation, 1967                                                                                                                                | The whole               |
| Proclamation R222 of 1969  | Civil and Criminal Jurisdiction: Chiefs, Headmen, Chiefs' Deputies and Headmen's Deputies, Territory of South West Africa Amendment Proclamation, 1969                                                                                                                      | The whole               |
| Proclamation R320 of 1970  | Jurisdiction of Chiefs, Chief Tribal Councillors ( <i>Ngambelas</i> ), Tribal Councillors ( <i>Khuta</i> Members), Tribal Councils ( <i>Khutas</i> ), Headmen of Wards ( <i>Silalo Indunas</i> ) and Representatives of Chiefs. – Eastern Caprivi Zipfel Proclamation, 1970 | The whole               |
| Proclamation R304 of 1972  | Civil and Criminal Jurisdiction: Chiefs, Headmen, Chiefs' Deputies and Headmen's Deputies, Territory of South-West Africa Amendment Proclamation, 1972                                                                                                                      | The whole               |
| Proclamation R241 of 1973  | Civil and Criminal Jurisdiction: Chiefs, Headmen, Chiefs' Deputies and Headmen's Deputies, Territory of South-West Africa Amendment Proclamation, 1973                                                                                                                      | The whole               |
| Proclamation 160 of 1975   | Proclamation to provide for the establishment of a Nama Council, Tribal Authorities and Village Management Boards in Namaland, 1975                                                                                                                                         | The whole               |
| Proclamation AG 70 of 1980 | Jurisdiction of Traditional Authorities in Hereroland in respect of Civil and Criminal Amendment Proclamation, 1980                                                                                                                                                         | The whole               |
| Act 27 of 1985             | Native Administration Proclamation Amendment Act, 1985                                                                                                                                                                                                                      | The whole               |
| Ordinance 2 of 1986        | Damara Community and Regional Authorities and Paramount Chief and Headmen Ordinance, 1986                                                                                                                                                                                   | The whole               |
| Ordinance 3 of 1986        | Tswana Chief and Headmen Ordinance, 1986                                                                                                                                                                                                                                    | The whole               |





**ANNEXURE 1D**  
**REGULATIONS TO THE COMMUNITY COURTS ACT, 2003**  
**(NO. 10 OF 2003)**



**GOVERNMENT GAZETTE**  
**OF THE**  
**REPUBLIC OF NAMIBIA**

N\$2.00

WINDHOEK - 17 November 2003

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**Government Notices**

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**MINISTRY OF JUSTICE**

No. 236

2003

**COMMENCEMENT OF THE COMMUNITY COURTS ACT, 2003**

Under the powers vested in me by section 34 of the Community Courts Act, 2003 (Act No. 10 of 2003) I determine that the Act comes into operation on 17 November 2003.

**A. KAWANA**  
**MINISTER OF JUSTICE**

Windhoek, 12 November 2003

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**MINISTRY OF JUSTICE**

No. 237

2003

**REGULATIONS OF COMMUNITY COURTS:**  
**COMMUNITY COURTS ACT, 2003**

The Minister of Justice, under section 32 of the Community Courts Act, 2003 (Act No. 10 of 2003), has made the regulations set out in the Schedule.

## SCHEDULE

### Definitions

1. In these regulations a word or expression that is defined in the Act has the same meaning, and -

“the Act” means the Community Courts Act, 2003 (Act No. 10 of 2003); and

“Traditional Authorities Act” means the Traditional Authorities Act, 2000 (Act No. 25 of 2000).

### Instituting of proceedings in community court

2. (1) The process of the community court for commencing an action shall be by summons -

- (a) served in accordance with the applicable customary law practice and procedure; and
- (b) calling upon the defendant to appear before the community court to answer to a claim of the plaintiff.

(2) Unless the applicable customary law practice and procedure otherwise requires, the summons shall -

- (a) be issued by the clerk of the court and shall bear his or her signature, the subject matter, date of issue, place, date and time of hearing;
- (b) show the surname of the defendant by which he or she is known to the plaintiff, the defendant’s gender and residence or place of business, and, where known, his or her first name or initials and his or her occupation, and if defendant is sued in his or her representative capacity, the capacity in which he or she is so sued;
- (c) show a full address where the plaintiff will accept service of process, notices or documents and also the postal address;
- (d) show the first name, surname, gender, occupation and the residence or place of business of the plaintiff;
- (e) where the plaintiff sues as cessionary, show the name, address and description of the cedent at the date of the cession, and the date of the cession; and
- (f) where the plaintiff sues in a representative capacity, state the capacity in which he or she sues.

### Procedure to be observed in community courts

3. A community court when conducting its proceedings shall observe its customary law practice and procedure which had been observed for years, but only to an extent it considers fair and just in accordance with the principles of fairness and natural justice contemplated in section 19.

### Times and places of holding court sittings

4. Sittings of a community court shall be held at the time and place decided upon by the traditional community concerned.

**Keeping of records of evidence and of proceedings in court and custody and disposal of such records and duties of clerk of court in respect of such records**

5. (1) The record of proceedings to be recorded in writing by the clerk of the community court in terms of section 18(2) of the Act shall include -

- (a) any oral evidence given in court;
- (b) any objection made to any evidence received or tendered;
- (c) any judgment given by the court; and
- (d) any record of any inspection *in loco*.

(2) The clerk of the community court shall also mark each document put in evidence and note such mark on the record.

(3) The clerk of the community court shall furnish copies of the records of the proceedings of the court referred to in subregulation (1) to the magistrate's court and the Permanent Secretary: Justice within a period of 60 days from the date a record was made.

(4) Any person, upon request made to the Permanent Secretary: Justice, or the clerk of the community court concerned, may obtain a copy of the record of the proceedings of the court referred to in subregulation (1) on payment of a fee of N\$1,50 per folio.

**Manner of procuring attendance of witnesses**

6. (1) The process of community court for procuring the attendance of any person to give evidence on a subject matter or on any aspect thereof or to produce any book, paper or document shall be in accordance with the applicable customary law practice and procedure, otherwise, it shall be by subpoena issued by the clerk of the court and sued out by the party desiring the attendance of such person.

(2) Service of a subpoena on a witness may be effected -

- (a) in accordance with the applicable customary law practice and procedure;  
or
- (b) through the messenger of the court, if the party suing out the subpoena so desires at his or her own expense.

(3) There shall be handed to the messenger of the court (if the party suing out the subpoena desires it to be served through the messenger) together with the subpoena so many copies of the subpoena as there are witnesses to be summoned.

**Appointment of interpreters and their allowances**

7. An interpreter referred to in section 15 of the Act shall -

- (a) be a competent person who is sufficiently conversant in the language that a community court has decided to use during its proceedings and also in the language he or she is called upon to translate into and from;
- (b) be appointed by the clerk of the court;
- (c) be paid the allowance set out in Table D; and
- (d) take an oath or make an affirmation before the Justice presiding over the matter in the form set out below -

"I, .....(full name), do swear/solemnly and sincerely affirm and declare that I shall truly and correctly to the best of my ability interpret into and from the language I am called upon to interpret and from and into the language being used in this proceedings. So help me God."

#### **Service or execution of process of community court**

8. (1) Service or execution of process of a community court referred to in section 17 of the Act shall be effected in accordance with the applicable customary law practice and procedure, otherwise it shall be effected in accordance with this regulation.

(2) A party requiring service or execution of process of community court by the messenger of the community court shall deliver to the messenger the original of such process together with as many copies thereof as there are persons to be served.

(3) The messenger of the community court to whom a process is entrusted for service or execution shall in writing notify -

- (a) the clerk of the community court and the party who sued out the process that service or execution has been duly effected, stating the date and manner of service or the result of execution and return that process to the clerk; or
- (b) the party who sued out the process that he or she has been unable to effect service or execution, and of the reason for such inability, and return the said process to such party, but the messenger shall keep a record of any process so returned.
- (4) The messenger of the community court -
  - (a) shall effect the service or execution of the process of the community court without any avoidable delay;
  - (b) has power to call upon any member of the Namibian Police Force to render him or her aid, in any case where resistance to the due service or execution of the process of the community court has been met with or reasonably anticipated.

#### **Business hours for office of clerk of community court**

9. Unless the customary law practice and procedure provides otherwise -

- (a) the business hours for the office of the clerk of the community court start at 8h00 and end at 17h00;
- (b) the office of the clerk of the community court shall be closed on every Saturday, Sunday and public holiday.

#### **Translation of community court records**

10. (1) A community court shall cause its records which are a subject of appeal to the magistrate's court to be translated into the official language.

(2) A party to the matter on appeal to the magistrate's court may cause the records referred to in subsection (1) to be translated into the official language by a sworn translator at his or her own expense.

#### **Appeal against order or decision of community court**

11. (1) A party to any proceedings in a community court who is aggrieved by any order or decision of that community court may appeal to -

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- (a) the same community court, if that community court in terms of section 2(5) of the Act comprises a body of appeal and is vested with the jurisdiction to hear and determine any appeal relating to a matter referred to in section 12(a) of the Act; or
  - (b) the magistrate's court, if -
    - (i) the community court does not comprise a body of appeal vested with the jurisdiction to hear and determine any appeal; or
    - (ii) it is a further appeal against any appeal judgment made by the court referred to in paragraph (a).
- (2) Upon request in writing by any party within 14 days from the date of the judgment of the community court, or within such extended period as the court may allow, the clerk of the community court shall -
- (a) within 21 days of the request, supply the party with a copy of the record of proceedings, including a written judgment showing -
    - (i) the facts the Justice found to be proved; and
    - (ii) the Justice's reasons for the order or decision.
  - (b) after supplying the party with a copy of the record of proceedings referred to in paragraph (a), forthwith endorse on the original minutes of record the date on which the copy was so supplied.
- (3) An appeal under subsection (1)(b) shall be noted by the delivery of notice to the clerk of the magistrate's court within 30 days from the date of the order or decision appealed against or within such extended period as the magistrate's court may allow.
- (4) A notice of appeal shall state -
- (a) whether the whole or a part of the judgment is appealed against, and if it is a part, then what part;
  - (b) the grounds of appeal, specifying the findings of fact or rulings of law appealed against, and whether it is a further appeal; and
  - (c) the name of -
    - (i) the magistrate's court to which the appeal is noted;
    - (ii) the community court whose order or decision is appealed against; and
    - (iii) the parties to the appeal.

#### **Remunerations and allowances**

**12.** Remunerations and allowances payable under the Act are set out in Tables A, B, C and D.

*Take note that in terms of section 10(3) of the Act, a Justice or clerk or messenger of the court who receives remuneration as a traditional leader or a secretary under the Traditional Authorities Act shall not be entitled to allowances or remuneration under the Act.*

TABLE A  
SITTING ALLOWANCES PAYABLE  
TO JUSTICES

(Section 10(2), regulation 12)

1. For every attendance:
  - (a) Per hour or part thereof..... an amount equal to the allowances payable to a traditional leader under section 17(1)(a)(ii) of the Traditional Authorities Act per hour;
  - (b) Per day..... an amount equal to the allowances payable to a traditional leader under section 17(1)(a)(ii) of the Traditional Authorities Act per day.
2. Attendance to be reckoned from the hour for which the Justice is summoned to the hour at which judgment is given or reserved, or to the hour at which the Justice is expressly released by the court from further attendance, whichever is the earlier.
3. When the case is adjourned, postponed or settled, attendances to be reckoned from the hour for which the Justice is summoned to the hour at which the case is adjourned, postponed or settled, or to the hour at which the Justice is expressly released by the court from further attendance, whichever is the earlier.
4. A Justice who has neither a residence nor a place of business within five kilometres of the court-house is also entitled to a travel allowance at the rate of 60 cents per kilometre for each journey actually and necessarily taken between the court-house and his or her residence or place of business.

TABLE B  
ALLOWANCES PAYABLE TO ASSESSORS  
(Sections 7(5) and 27(5), regulation 12)

1. Assessor in the community court, for every attendance:
  - (a) Per hour or part thereof ..... N\$4,00;
  - (b) Per day..... N\$32,00;
2. Assessor in the magistrate's court, for every attendance:
  - (a) Per hour or part thereof..... an amount equal to a fee payable to state witness in magistrate's court per hour;
  - (b) Per day..... an amount equal to a fee payable to state witness in magistrate's court per day.



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3. Attendance to be reckoned from the hour for which the assessor is summoned to the hour at which judgment is given or reserved, or to the hour at which the assessor is expressly released by the court from further attendance, whichever is the earlier.
4. When the case is adjourned, postponed or settled, attendances to be reckoned from the hour for which the assessor is summoned to the hour at which the case is adjourned, postponed or settled, or to the hour at which the assessor is expressly released by the court from further attendance, whichever is the earlier.
5. An assessor who has neither a residence nor a place of business within five kilometres of the court-house is also entitled -
  - (a) to a travel allowance at the rate of 60 cents per kilometer for each journey actually and necessarily taken between the court-house and his or her residence or place of business, in the case of an assessor in the community court; or
  - (b) to travel and accommodation allowances applicable to state witnesses in the magistrate's court, in the case of an assessor in the magistrate's court.

## TABLE C

REMUNERATIONS PAYABLE TO CLERKS AND  
MESSENGERS OF COMMUNITY COURT

(Section 10(2), regulation 12)

## 1. Clerk of community court:

A remuneration..... equal to the allowances payable to a secretary under section 17(1)(b) of the Traditional Authorities Act.

## 2. Messenger of community court:

A remuneration ..... equal to the allowances payable to a secretary under section 17(1)(b) of the Traditional Authorities Act, minus 20%.

## TABLE D

ALLOWANCES PAYABLE TO  
INTERPRETERS

(Section 32(1)(f), regulation 12)

## 1. For every attendance:

- (a) Per hour or part thereof ..... N\$2,00;
- (b) Per day..... N\$16,00.

2. Attendance to be reckoned from the hour for which the interpreter is summoned to the hour at which judgment is given or reserved, or to the hour at which the interpreter is expressly released by the court from further attendance, whichever is the earlier.
3. When the case is adjourned, postponed or settled, attendances to be reckoned from the hour for which the interpreter is summoned to the hour at which the case is adjourned, postponed or settled, or to the hour at which the interpreter is expressly released by the court from further attendance, whichever is the earlier.
4. An interpreter who has neither a residence nor a place of business within five kilometres of the court-house is also entitled to a travel allowance at the rate of 30 cents per kilometre for each journey actually and necessarily taken between the court-house and his or her residence or place of business.

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**MINISTRY OF JUSTICE**

No. 238

2003

**DETERMINATION OF PERIOD FOR APPLICATION FOR  
RECOGNITION AS COMMUNITY COURT:  
COMMUNITY COURTS ACT, 2003**

Under the powers vested in me by section 2(2) of the Community Courts Act, 2003 (Act No. 10 of 2003), I determine the period 17 November 2003 to 31 March 2004 as the period within which an application under subsection (1) of that section for recognition as community court in respect of the area of a traditional community shall be made.

**A. KAWANA  
MINISTER OF JUSTICE**

Windhoek, 12 November 2003

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**ANNEXURE 2**  
**LIST OF OFFICIALLY RECOGNISED**  
**COMMUNITY COURTS**



**GOVERNMENT NOTICES RECOGNISING THE CUSTOMARY COURTS OF  
THE TRADITIONAL COMMUNITIES WHOSE SELF-STATED CUSTOMARY  
LAWS ARE CONTAINED IN VOLUME 1 OF *CUSTOMARY LAW*  
ASCERTAINED AS COMMUNITY COURTS IN TERMS OF SECTION 2(3)  
OF THE COMMUNITY COURTS ACT, 2003  
(NO. 10 OF 2003)<sup>1</sup>**

**The Owambo communities**

Recognition of Okalongo Customary Court as a community court and appointment of assessors and justices

Community Courts Act, 2003

GN No. 112 of 2009, withdrawn with recognition of Ombadja Customary Court as a community court and appointment of assessors and justices

Community Courts Act, 2003

GN No. 53 of 2010, amended by GN No. 259 of 2012

Recognition of Ombalantu Customary Court as a community court and appointment of assessors and justices

Community Courts Act, 2003

GN No. 109 of 2009, withdrawn and re-recognised by GN No. 54 of 2010, amended by GN No. 101 of 2011

Recognition of Ondonga Customary Court as a community court and appointment of assessors and justices

Community Courts Act, 2003

GN No. 99 of 2009, withdrawn and re-recognised by GN No. 56 of 2010, amended by GN No. 77 of 2013

Recognition of Ongandjera Customary Court as a community court and appointment of assessors and justices

Community Courts Act, 2003

GN No. 100 of 2009, withdrawn and re-recognised by GN No. 55 of 2010

Recognition of Oukwanyama Customary Court as a community court and appointment of assessors and justices

Community Courts Act, 2003

GN No. 101 of 2009, withdrawn and re-recognised by GN No. 57 of 2010, amended by GN No. 258 of 2012

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1 The Government Notices recognising the Community Courts of the communities whose laws were published in Volume 1 of *Customary law ascertained* were not available at the time that Volume was published.

Recognition of Uukolonkadhi Customary Court as a community court and appointment of assessors and justices

Community Courts Act, 2003

GN No. 58 of 2009

Recognition of Uukwaluudhi Customary Court as a community court and appointment of assessors and justices

Community Courts Act, 2003

GN No. 110 of 2009, amended by GN No. 290 of 2012

Recognition of Uukwambi Customary Court as a community court and appointment of assessors and justices

Community Courts Act, 2003

GN No. 102 of 2009, withdrawn and re-recognised by GN No. 59 of 2010

### **The Kavango communities**

Recognition of Geiriku Customary Court as a community court and appointment of assessors and justices

Community Courts Act, 2003

GN No. 90 of 2009

Recognition of Mbukushu Customary Court as a community court and appointment of assessors and justices

Community Courts Act, 2003

GN No. 98 of 2009

Recognition of Mbunza Customary Court as a community court and appointment of assessors and justices

Community Courts Act, 2003

GN No. 107 of 2009

Recognition of Shambyu Customary Court as a community court and appointment of assessors and justices

Community Courts Act, 2003

GN No. 108 of 2009, amended by GN No. 97 of 2013

Recognition of Ukwangali Customary Court as a community court and appointment of assessors and justices

Community Courts Act, 2003

GN No. 98 of 2013

## **The Caprivi communities**

Recognition of Linyanti Customary Court as a community court and appointment of assessors and justices

Community Courts Act, 2003

GN No. 105 of 2009, amended by GN No. 261 of 2012<sup>2</sup>

Recognition of Mafwe Customary Court as a community court and appointment of assessors and justices

Community Courts Act, 2003

GN No. 95 of 2009<sup>3</sup>

Recognition of Masubia Customary Court as a community court and appointment of assessors and justices

Community Courts Act, 2003

GN No. 97 of 2009

Recognition of Mayeyi Customary Court as a community court and appointment of assessors and justices

Community Courts Act, 2003

GN No. 103 of 2009, amended by GN No. 262 of 2012

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2 This recognition refers to the Mafwe Traditional Authority under Litunga Mamili George Simasku.

3 This recognition refers to the Mashi Traditional Authority under Omfumu Mayuni Joseph Tembwe K.

**GOVERNMENT NOTICES RECOGNISING THE CUSTOMARY COURTS OF  
THE TRADITIONAL COMMUNITIES WHOSE SELF-STATED CUSTOMARY  
LAWS ARE CONTAINED IN VOLUME 2 OF *CUSTOMARY LAW*  
ASCERTAINED AS COMMUNITY COURTS IN TERMS OF SECTION 2(3)  
OF THE COMMUNITY COURTS ACT, 2003  
(NO. 10 OF 2003)**

**The Bakgalagari community**

Recognition of Bakgalagadi Customary Court as a community court and appointment of assessors and justices  
Community Courts Act, 2003  
GN No. 113 of 2009

**The Batswana ba Namibia community**

Recognition of King Morwe II Customary Court as a community court and appointment of assessors and justices  
Community Courts Act, 2003  
GN No. 89 of 2009

**The Damara communities**

Recognition of Tsoaxudaman Customary Court as a community court and appointment of assessors and justices  
Community Courts Act, 2003  
GN No. 60 of 2010, amended by GN No. 76 of 2013

Recognition of |Gaiodaman Customary Court as a community court and appointment of assessors and justices  
Community Courts Act, 2003  
GN No. 52 of 2010, withdrawn and re-recognised by GN No. 114 of 2009

Recognition of |Gobanin Customary Court as community court and appointment of assessors and justices  
Community Courts Act, 2003  
GN No. 91 of 2009

Recognition of |Khomanin Hagos Customary Court as community court and appointment of assessors and justices  
Community Courts Act, 2003  
GN No. 94 of 2009, amended by GN No. 260 of 2012

Recognition of !Oe-†Gân Customary Court as a community court and appointment of assessors and justices

Community Courts Act, 2003

GN No. 60 of 2011, amended by GN No. 78 of 2013

Recognition of †Aodaman Customary Court as a community court and appointment of assessors and justices

Community Courts Act, 2003

GN No. 103 of 2011, amended by GN No. 64 of 2013





**ANNEXURE 3**  
**ADDRESSES OF THE BAKGALAGARI,**  
**BATSWANA BA NAMIBIA, AND DAMARA TRADITIONAL**  
**AUTHORITIES**



| TRADITIONAL<br>AUTHORITY | NAME OF SUPREME<br>LEADER                                            | POSTAL ADDRESS         | TEL./CELL<br>NO.            |
|--------------------------|----------------------------------------------------------------------|------------------------|-----------------------------|
| BAKGALAGARI              |                                                                      |                        |                             |
| Bakgalagari              | Hubert Tidimalo Ditshabue                                            | PO Box 1023, Gobabis   | 063 273 244                 |
| BATSWANA BA NAMIBIA      |                                                                      |                        |                             |
| Batswana ba<br>Namibia   | [No officially recognised<br>incumbent at time of going<br>to press] | PO Box 1322, Gobabis   | 062 564 742                 |
| DAMARA COMMUNITIES       |                                                                      |                        |                             |
| Dâure Daman              | Elias Taniseb                                                        | PO Box 30, Uis         | 081 381 7634                |
| Tsoaxudaman              | Betuel Haraseb                                                       | PO Box 404, Karibib    | 064 551 073<br>081 400 0834 |
| !Gaiodaman               | JM Haraseb                                                           | PO Box 123, Kamanjab   | 081 304 4735                |
| !Gobanin                 | Gariseb Stefanus                                                     | PO Box 61, Otjinene    | 062 564 132                 |
| !Khomanin                | [No officially recognised<br>incumbent at time of going<br>to press] | PO Box 22750, Windhoek | 061 264 056                 |
| !Oe-!Gân                 | Immanuel Nu-axa !Gaseb                                               | PO Box 107, Omaruru    | 064 570 627<br>081 242 2607 |
| ‡Aodaman                 | Ukongo Petrus                                                        | PO Box 9, Khorixas     | 081 261 4142                |

The following titles are also available in this series:

Hinz, Manfred O, assisted by Ndateelela Emilia Namwoonde (Eds). 2010. *Customary law ascertained, Volume 1. The customary law of the Owambo, Kavango and Caprivi communities of Namibia*. Windhoek: Kuiseb Publishers/Namibia Scientific Society.

Hinz, Manfred O (Ed) assisted by Alexander Gairiseb. [Forthcoming]. *Customary law ascertained, Volume 3. The customary law of the Nama, Ovaherero and Ovambanderu, and San communities of Namibia*. Windhoek: University of Namibia Press.





*Customary Law Ascertained Volume 2* is the second of a three-volume series in which traditional authorities in Namibia present the customary laws of their communities. It contains the laws of the Bakgalagari, the Batswana ba Namibia and the Damara communities. Volume 1 contained the customary laws of the Owambo, Kavango and Caprivi communities. Volume 3 contains the customary laws of the Nama, Ovaherero and Ovambanderu, and San communities.

Recognised traditional authorities in Namibia are expected to ascertain the customary law applicable in their respective communities after consultation with the members of that community, and to note the most important aspect of such law in written form. This series is the result of that process. It has been facilitated by the Human Rights and Documentation Centre of the University of Namibia, through the former Dean of the Law Faculty, Professor Manfred Hinz.



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